

# HOUSE BILL No. 1524

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 16-28-8; IC 34-30-2-66.5.

**Synopsis:** Health facility receivership. Provides that a health facility may be placed in receivership whenever the court, in its discretion, believes such action necessary to secure justice. Specifies the qualifications, powers, and duties of a health facility receiver. Provides that a health facility may not continue in operation more than 240 days after the appointment of a receiver without approval of the state department of health. Provides that a receiver placed in a health facility be paid by the facility if the receiver is not a state employee, and by the state if the receiver is a state employee. Establishes a formula for determining the compensation of a receiver placed in a health facility. Gives the director of the state department of health the authority to revoke a health facility's license for failure to relinquish authority  
(Continued next page)

**Effective:** July 1, 1999.

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January 19, 1999, read first time and referred to Committee on Public Health.

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Digest Continued

to the receiver or failure to pay the receiver's salary. Provides immunity from civil liability for a receiver or a receiver's agent, except for a breach of duty or failure to perform that constitutes willful misconduct or recklessness.

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Introduced

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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## HOUSE BILL No. 1524



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

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

1 SECTION 1. IC 16-28-8-2 IS AMENDED TO READ AS  
 2 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 2. The court may order  
 3 a health facility placed in receivership in the following circumstances:  
 4 (1) The facility is operating without a license.  
 5 (2) The license of the facility has expired or been revoked.  
 6 (3) The facility is closing or plans to close and adequate  
 7 arrangements have not been made for the orderly transfer of  
 8 patients at least thirty (30) days before closing.  
 9 (4) The facility is operating under extraordinary conditions that  
 10 present a major threat to the health, safety, security, rights, or  
 11 welfare of a facility's patients, including imminent abandonment  
 12 of the facility by the owner.  
 13 (5) **In such other cases as provided by law or whenever, in the**  
 14 **discretion of the court, it may be necessary to secure justice.**  
 15 SECTION 2. IC 16-28-8-4 IS AMENDED TO READ AS



1 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 4. ~~(a)~~ A receiver:

2 (1) must be licensed under IC 25-19-1, **unless the receiver is a**  
3 **state employee; and**

4 **(2) must possess the education and experience necessary, as**  
5 **determined by the director, to oversee correction of the**  
6 **deficiencies of the facility;**

7 **(3) must not have been found guilty of misconduct by any**  
8 **licensing board or professional society in the state;**

9 **(4) must not have (or a member of the receiver's immediate**  
10 **family must not have) a financial ownership interest in the**  
11 **facility.**

12 ~~(2)~~ **(5) has the powers and duties granted by the court to protect**  
13 **the interests of the patients in the health facility**

14 ~~(b)~~ **These powers and duties may include providing for the orderly**  
15 **relocation of patients from the health facility and the refusal to refuse**  
16 **to admit new patients pending closure;**

17 **(6) must report to the director on the operation of the facility**  
18 **and the status and condition of the patients;**

19 **(7) has the powers granted by the court to:**

20 (A) collect and reduce to money the property of an estate;

21 (B) bring and defend actions;

22 (C) take and keep possession of the property of an estate;

23 (D) receive rents;

24 (E) collect debt in the receiver's own name;

25 (F) hire, terminate, or reassign staff;

26 (G) obligate facility funds;

27 (H) alter facility procedures;

28 (I) manage the facility to correct deficiencies identified by  
29 the director or the director's staff; and

30 (J) perform such acts respecting the facility as the court  
31 may authorize;

32 **(8) shall furnish such information concerning the facility and**  
33 **the facility's administration as is requested by a party in**  
34 **interest, unless the court orders otherwise;**

35 **(9) shall file periodic reports and summaries of the operation**  
36 **of the facility, including a statement of receipts and**  
37 **disbursements, and such other information as the director or**  
38 **the court requires;**

39 **(10) may employ, subject to the approval of the state**  
40 **department, one (1) or more attorneys, accountants, or other**  
41 **persons, including licensed and nonlicensed health care**  
42 **professionals, who do not hold or represent an interest**

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1           adverse to the facility to represent or assist the receiver in  
2           carrying out the receiver's duties under this title;

3           (11) must receive a provisional appointment from the state  
4           department entitling the receiver to receive Medicaid  
5           payments from the office of Medicaid policy and planning;  
6           and

7           (12) shall file a final report and a final account of the  
8           administration of the facility with the court and the director.

9           SECTION 3. IC 16-28-8-5 IS AMENDED TO READ AS  
10          FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 5. (a) Unless a health  
11          facility is ordered to be closed within one hundred twenty (120) days,  
12          the receiver shall operate the health facility subject to the same  
13          standard and rate criteria that apply to all health facilities licensed  
14          under IC 16-28-2.

15          (b) A health facility shall not continue in operation more than  
16          two hundred forty (240) days after the appointment of a receiver  
17          without the consent of the state department.

18          SECTION 4. IC 16-28-8-6 IS ADDED TO THE INDIANA CODE  
19          AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
20          1, 1999]: Sec. 6. (a) The costs of placing a receiver in a health  
21          facility shall be paid by:

- 22               (1) the health facility, if the receiver is not a state employee;  
23               or  
24               (2) the state, if the receiver is a state employee.

25          (b) The receiver shall receive compensation in an amount equal  
26          to the sum of:

- 27               (1) the prevailing salary paid by providers for similar  
28               positions in the facility's geographic area;  
29               (2) additional costs that would have reasonably been incurred  
30               by the facility if the receiver had been in an employment  
31               relationship; and  
32               (3) any other costs incurred by the receiver in furnishing  
33               services under the arrangement or as agreed to by the  
34               director.

35          SECTION 5. IC 16-28-8-7 IS ADDED TO THE INDIANA CODE  
36          AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
37          1, 1999]: Sec. 7. (a) If the facility fails to relinquish authority to the  
38          receiver, the director may revoke the facility's license upon  
39          twenty-four (24) hours notice to the facility.

40          (b) If the facility is required to pay the receiver under section 6  
41          of this chapter and fails to pay the receiver's salary, the director  
42          may revoke the facility's license upon a seven (7) day notice to the



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1 **facility.**  
2 SECTION 6. IC 16-28-8-8 IS ADDED TO THE INDIANA CODE  
3 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
4 1, 1999]: **Sec. 8. (a) A receiver is immune from civil liability for an**  
5 **action taken as a receiver, or failure to take an action, unless the**  
6 **following conditions exist:**  
7 (1) **The receiver has breached or failed to perform the duties**  
8 **of the receiver's office in compliance with this chapter.**  
9 (2) **The breach or failure to perform constitutes willful**  
10 **misconduct or recklessness.**  
11 (b) **An agent of a receiver is immune from civil liability for an**  
12 **action taken as an agent of the receiver, or failure to take an action,**  
13 **unless the following conditions exist:**  
14 (1) **The agent has breached or failed to perform the duties of**  
15 **the agent's agency of the receiver in compliance with this**  
16 **chapter.**  
17 (2) **The breach or failure to perform constitutes willful**  
18 **misconduct or recklessness.**  
19 SECTION 7. IC 34-30-2-66.5 IS ADDED TO THE INDIANA  
20 CODE AS A NEW SECTION TO READ AS FOLLOWS  
21 [EFFECTIVE JULY 1, 1999]: **Sec. 66.5. IC 16-28-8-8 (Concerning**  
22 **a person who performs actions as a receiver or a receiver's agent**  
23 **for a health facility).**

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