



January 28, 2000

SENATE BILL No. 370

DIGEST OF SB 370 (Updated January 26, 2000 6:06 PM - DI 77)

Citations Affected: IC 12-7; IC 12-9; IC 12-11; IC 12-24; IC 12-28; IC 16-18; IC 16-28; IC 16-32; noncode.

Synopsis: Community residential facilities council. Makes changes to the membership and meeting procedure of the community residential facilities council. Requires council approval of an entity providing supported living services. Allows the council to issue a provisional license or provisional approval for up to six months to a supervised group living facility or an entity that provides supported living services. Requires the state department of health to establish and maintain a registry of certain unlicensed employees of: (1) community based residential, habilitation, or vocational services providers; (2) intermediate care facilities for the mentally retarded serving more than eight individuals; (3) state institutions under the control of the division of disability, aging, and rehabilitative services (DDARS) or the division of mental health; and (4) health care facilities. Prohibits health care facilities and certain entities that provide services to persons with developmental disabilities from employing an individual in certain unlicensed positions if the individual has been convicted of specified offenses or if the individual has committed a certain action. Allows DDARS to assess a civil penalty for noncompliance.

Effective: Upon passage; July 1, 2000; July 1, 2001.

Riegsecker, Craycraft

January 10, 2000, read first time and referred to Committee on Rules and Legislative Procedure.
January 20, 2000, amended; reassigned to Committee on Health and Provider Services.
January 27, 2000, amended, reported favorably — Do Pass.

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January 28, 2000

Second Regular Session 111th General Assembly (2000)

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 1999 General Assembly.

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SENATE BILL No. 370

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 12-7-2-37.5 IS ADDED TO THE INDIANA CODE
2 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2000]: **Sec. 37.5. "Community based residential, habilitation, or
4 vocational services provider", for purposes of IC 12-9-5 and
5 IC 12-11-1.5, means an entity approved by the bureau of
6 developmental disabilities services under IC 12-11-1.1-1(e).**
7 SECTION 2. IC 12-7-2-63.5 IS ADDED TO THE INDIANA CODE
8 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
9 1, 2000]: **Sec. 63.5. (a) "Direct care staff person", for purposes of
10 IC 12-9-5, IC 12-11-1.5, and IC 12-24-3.5, means an individual who
11 provides direct assistance with daily living and personal
12 adjustment activities to a consumer receiving services from:
13 (1) a community based residential, habilitation, or vocational
14 services provider (as defined in section 37.5 of this chapter);
15 (2) an ICF/MR (as defined in IC 16-18-2-185) serving more
16 than eight (8) individuals; or
17 (3) a state institution (as defined in section 184 of this**

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- 1 chapter).
- 2 (b) The term does not include the following:
- 3 (1) A person who holds a license (as defined in IC 25-1-9-3)
- 4 issued by a board (as defined in IC 25-1-9-1).
- 5 (2) A volunteer who provides direct care services without
- 6 compensation.
- 7 (3) A member of the consumer's immediate family.
- 8 SECTION 3. IC 12-7-2-135.6 IS ADDED TO THE INDIANA
- 9 CODE AS A NEW SECTION TO READ AS FOLLOWS
- 10 [EFFECTIVE JULY 1, 2000]: **Sec. 135.6. (a) "Other unlicensed**
- 11 **employee", for purposes of IC 12-11-1.5 and IC 12-24-3.5, means**
- 12 **an employee of:**
- 13 (1) a community based residential, habilitation, or vocational
- 14 services provider (as defined in section 37.5 of this chapter);
- 15 (2) an ICF/MR (as defined in IC 16-18-2-185) serving more
- 16 than eight (8) individuals; or
- 17 (3) a state institution (as defined in section 184 of this
- 18 chapter).
- 19 (b) The term does not include the following:
- 20 (1) A direct care staff person (as defined in section 63.5 of this
- 21 chapter).
- 22 (2) A person who holds a license (as defined in IC 25-1-9-3)
- 23 issued by a board (as defined in IC 25-1-9-1).
- 24 SECTION 4. IC 12-7-2-159.3 IS ADDED TO THE INDIANA
- 25 CODE AS A NEW SECTION TO READ AS FOLLOWS
- 26 [EFFECTIVE JULY 1, 2000]: **Sec. 159.3. "Registry of direct care**
- 27 **staff", for purposes of IC 12-9-5, IC 12-11-1.5, and IC 12-24-3.5,**
- 28 **refers to the registry of direct care staff persons maintained by the**
- 29 **state department of health under IC 16-32-4.**
- 30 SECTION 5. IC 12-7-2-159.5 IS ADDED TO THE INDIANA
- 31 CODE AS A NEW SECTION TO READ AS FOLLOWS
- 32 [EFFECTIVE JULY 1, 2000]: **Sec. 159.5. "Registry of nurse aides",**
- 33 **for purposes of IC 12-11-1.5 and IC 12-24-3.5, refers to the registry**
- 34 **of nurse aides maintained by the state department of health under**
- 35 **42 CFR 483.156.**
- 36 SECTION 6. IC 12-9-5-5 IS ADDED TO THE INDIANA CODE
- 37 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
- 38 1, 2000]: **Sec. 5. (a) This section applies to the following entities:**
- 39 (1) A community based residential, habilitation, or vocational
- 40 services provider.
- 41 (2) An ICF/MR (as defined in IC 16-18-2-185) serving more
- 42 than eight (8) individuals.



- 1 **(3) A state institution.**
- 2 **(b) Not later than September 1, 2000, the division shall establish**
3 **a procedure for the receipt and the timely review and investigation**
4 **of allegations of:**
- 5 **(1) neglect of a consumer;**
6 **(2) abuse of a consumer;**
7 **(3) mistreatment of a consumer; or**
8 **(4) misappropriation of a consumer's property;**
- 9 **by a direct care staff person of an entity described in subsection**
10 **(a).**
- 11 **(c) The procedure required under subsection (b) must allow for:**
12 **(1) reasonable notice to the direct care staff person; and**
13 **(2) reasonable opportunity for a hearing in which the direct**
14 **care staff person may rebut the allegation.**
- 15 **(d) The division shall, after following the procedure required**
16 **under this section, make a finding whether the direct care staff**
17 **person:**
- 18 **(1) neglected a consumer;**
19 **(2) abused a consumer;**
20 **(3) mistreated a consumer; or**
21 **(4) misappropriated a consumer's property.**
- 22 **(e) If the division determines that a direct care staff person has:**
23 **(1) neglected a consumer;**
24 **(2) abused a consumer;**
25 **(3) mistreated a consumer; or**
26 **(4) misappropriated a consumer's property;**
- 27 **the division shall notify the registry of direct care staff and the**
28 **individual's current employer, if known to the division, of that**
29 **determination.**
- 30 **(f) The division may adopt rules under IC 4-22-2, including**
31 **emergency rules under IC 4-22-2-37.1, to implement this section.**
- 32 SECTION 7. IC 12-11-1.5 IS ADDED TO THE INDIANA CODE
33 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
34 JULY 1, 2000]:
- 35 **Chapter 1.5. Criminal History of Direct Care Staff Persons and**
36 **Other Unlicensed Employees**
- 37 **Sec. 1. This chapter applies after August 31, 2000.**
- 38 **Sec. 2. This chapter applies to the following entities:**
- 39 **(1) A community based residential, habilitation, or vocational**
40 **services provider.**
- 41 **(2) An ICF/MR facility (as defined in IC 16-18-2-185) serving**
42 **more than eight (8) individuals.**

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1 **(3) An entity in the business of contracting to provide direct**
 2 **care staff persons or other unlicensed employees for an entity**
 3 **described in subdivision (1) or (2).**

4 **Sec. 3. (a) An entity described in section 2 of this chapter may**
 5 **not knowingly employ an individual as a direct care staff person or**
 6 **other unlicensed employee if the individual has been convicted of**
 7 **any of the following:**

8 **(1) A sex crime (IC 35-42-4).**

9 **(2) Exploitation of an endangered adult (IC 35-46-1-12).**

10 **(3) Failure to report battery, neglect, or exploitation of an**
 11 **endangered adult (IC 35-46-1-13).**

12 **(4) Theft (IC 35-43-4), if the individual's conviction for theft**
 13 **occurred less than ten (10) years before the individual's**
 14 **employment application date.**

15 **(5) Murder (IC 35-42-1-1).**

16 **(6) Voluntary manslaughter (IC 35-42-1-3).**

17 **(7) Involuntary manslaughter (IC 35-42-1-4) within the**
 18 **previous five (5) years.**

19 **(8) Felony battery (IC 35-42-2) within the previous five (5)**
 20 **years.**

21 **(9) A felony offense relating to controlled substances**
 22 **(IC 35-48-4) within the previous five (5) years.**

23 **(b) In addition to the requirement of subsection (a), an entity**
 24 **described in section 2 of this chapter may not employ an individual**
 25 **as a direct care staff person if one (1) or more of the following**
 26 **conditions exists:**

27 **(1) A finding that the individual has:**

28 **(A) abused, neglected, or mistreated a consumer; or**

29 **(B) misappropriated a consumer's property;**

30 **has been entered into the registry of direct care staff.**

31 **(2) A finding that the individual has:**

32 **(A) abused, neglected, or mistreated a patient; or**

33 **(B) misappropriated a patient's property;**

34 **has been entered into the registry of nurse aides.**

35 **Sec. 4. (a) An individual who knowingly or intentionally applies**
 36 **for a job as a direct care staff person at an entity described in**
 37 **section 2 of this chapter after:**

38 **(1) the individual is convicted of at least one (1) of the offenses**
 39 **listed in section 3(a) of this chapter;**

40 **(2) a finding that the individual has committed an action set**
 41 **forth in section 3(b)(1) of this chapter is entered into the**
 42 **registry of direct care staff; or**



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1 **(3) a finding that the individual has committed an action set**
 2 **forth in section 3(b)(2) of this chapter is entered into the**
 3 **registry of nurse aides;**
 4 **commits a Class A infraction.**

5 **(b) An individual who knowingly or intentionally applies for a**
 6 **job as an other unlicensed employee at an entity described in**
 7 **section 2 of this chapter after the individual is convicted of at least**
 8 **one (1) of the offenses listed in section 3(a) of this chapter commits**
 9 **a Class A infraction.**

10 **Sec. 5. (a) Except as provided in subsection (d), a person who**
 11 **operates an entity described in section 2 of this chapter shall,**
 12 **within three (3) business days after the date an individual is**
 13 **employed as a direct care staff person, apply to the state**
 14 **department of health for a copy of the individual's:**

- 15 **(1) registry of direct care staff report; and**
 16 **(2) registry of nurse aides report.**

17 **(b) Except as provided in subsection (d), a person who operates**
 18 **an entity described in section 2(1) or 2(3) of this chapter shall,**
 19 **within three (3) business days after the date an individual is**
 20 **employed as a direct care staff person, apply to the Indiana central**
 21 **repository for criminal history information under IC 5-2-5 or**
 22 **another source allowed by law for a copy of the individual's limited**
 23 **criminal history.**

24 **(c) Except as provided in subsection (d), a person who operates**
 25 **an entity described in section 2 of this chapter shall, within three**
 26 **(3) business days after the date an individual is employed as an**
 27 **other unlicensed employee, apply to the Indiana central repository**
 28 **for criminal history information under IC 5-2-5 or another source**
 29 **allowed by law for a copy of the individual's limited criminal**
 30 **history.**

31 **(d) If an entity described in section 2(3) of this chapter places**
 32 **an individual as a direct care staff person or other unlicensed**
 33 **employee in an entity described in section 2(1) or 2(2) of this**
 34 **chapter, the entity described in section 2(1) or 2(2) of this chapter**
 35 **is not required to apply for the documents required by subsection**
 36 **(a) or (c) regarding the individual.**

37 **Sec. 6. (a) Except as provided in subsection (b), if the registry of**
 38 **direct care staff does not contain any information regarding an**
 39 **individual who has applied for employment as a direct care staff**
 40 **person with an entity described in section 2 of this chapter, the**
 41 **entity shall transmit the information required to be contained in**
 42 **the registry of direct care staff under IC 16-32-4-4 within three (3)**

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1 business days after receipt of notice that there is no information
2 regarding the individual in the registry of direct care staff.

3 (b) If an entity described in section 2(3) of this chapter places an
4 individual as a direct care staff person in an entity described in
5 section 2(1) or 2(2), the entity described in section 2(1) or 2(2) of
6 this chapter is not required to transmit the information required
7 by subsection (a).

8 Sec. 7. (a) A person who operates an entity described in section
9 2 of this chapter may not employ an individual as a direct care staff
10 person after receipt of the individual's:

- 11 (1) registry of direct care staff report, if the report indicates
- 12 that the individual has been found to have committed an
- 13 action set forth in section 3(b)(1) of this chapter;
- 14 (2) registry of nurse aides report, if the report indicates that
- 15 the individual has been found to have committed an action set
- 16 forth in section 3(b)(2) of this chapter; or
- 17 (3) limited criminal history, if the limited criminal history
- 18 indicates that the individual has been convicted of any of the
- 19 offenses listed in section 3(a) of this chapter.

20 (b) A person who operates an entity described in section 2 of this
21 chapter may not employ an individual as an other unlicensed
22 employee after receipt of the individual's limited criminal history,
23 if the limited criminal history indicates that the individual has been
24 convicted of any of the offenses listed in section 3(a) of this chapter.

25 Sec. 8. (a) A person who operates an entity described in section
26 2 of this chapter is responsible for the payment of fees under
27 IC 5-2-5-7 and other fees required to process a registry of direct
28 care staff report, a registry of nurse aides report, and a limited
29 criminal history under this chapter.

30 (b) An entity described in section 2 of this chapter may require
31 an individual who applies to the entity for employment:

- 32 (1) to pay the cost of fees described in subsection (a) to the
- 33 entity at the time the individual submits an application for
- 34 employment; or
- 35 (2) to reimburse the entity for the cost of fees described in
- 36 subsection (a).

37 Sec. 9. The application of this chapter to an entity described in
38 section 2 of this chapter is limited to an individual:

- 39 (1) who is employed by the entity; and
- 40 (2) whose employment or responsibilities are limited to
- 41 activities primarily performed within an entity described in
- 42 section 2(1) or 2(2) of this chapter.

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1 **Sec. 10. An individual who is denied employment or dismissed**
2 **from employment under this chapter:**

- 3 (1) **does not have a cause of action;**
4 (2) **is not eligible for unemployment compensation;**
5 (3) **does not acquire the rights of an unemployed individual;**
6 **and**
7 (4) **does not have other rights under IC 22;**

8 **as a result of the denial or dismissal.**

9 **Sec. 11. (a) The division may assess a civil penalty against a**
10 **person who:**

- 11 (1) **operates an entity described in section 2 of this chapter;**
12 **and**
13 (2) **knowingly or intentionally violates section 3, 5, 6, or 7 of**
14 **this chapter.**

15 **(b) The amount of the penalty assessed under subsection (a) may**
16 **not exceed the amount of the fine that may be assessed by the state**
17 **department of health under IC 16-28-5-4(a)(2).**

18 **(c) Civil penalties collected under this section shall be:**

- 19 (1) **deposited by the division in the developmentally disabled**
20 **client services account; and**
21 (2) **used to implement this chapter and other quality**
22 **assurance programs approved by the division.**

23 **Sec. 12. (a) Each entity described in section 2 of this chapter**
24 **shall maintain a personnel record for each direct care staff person**
25 **and other unlicensed employee employed by the entity. The**
26 **personnel record must include the documents required under:**

- 27 (1) **section 5(a) of this chapter for a direct care staff person;**
28 **or**
29 (2) **section 5(b) of this chapter for an other unlicensed**
30 **employee.**

31 **(b) The personnel records required under subsection (a) shall be**
32 **available for inspection by the division to assure compliance with**
33 **this chapter.**

34 **(c) If an entity described in section 2(3) of this chapter provides**
35 **a direct care staff person or other unlicensed employee to an entity**
36 **described in section 2(1) or 2(2) of this chapter, the entity described**
37 **in section 2(3) of this chapter shall provide a copy of the documents**
38 **required under subsection (a) to the entity described in section 2(1)**
39 **or 2(2) of this chapter. If an entity described in section 2(3) of this**
40 **chapter fails to provide a document described in subsection (a) to**
41 **an entity described in section 2(1) or 2(2) of this chapter, the entity**
42 **described in section 2(1) or 2(2) of this chapter is not in violation**



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1 of this chapter.

2 **Sec. 13. If an entity described in section 2 of this chapter has**
 3 **knowledge of a conviction of an employee of the entity that would**
 4 **indicate unfitness for service as a direct care staff person, other**
 5 **unlicensed employee, or other health care professional (as defined**
 6 **in IC 16-27-2-1), the entity shall report the information to:**

- 7 (1) the division;
 8 (2) the registry of direct care staff, if the employee is a direct
 9 care staff person; or
 10 (3) the appropriate licensing authority.

11 **Sec. 14. The division may adopt rules under IC 4-22-2, including**
 12 **emergency rules under IC 4-22-2-37.1, to implement this chapter.**

13 SECTION 8. IC 12-24-3-2 IS AMENDED TO READ AS
 14 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 2. (a) **This section**
 15 **applies to an individual who is hired by a state institution before**
 16 **September 1, 2000.**

17 (b) To provide greater security for patients, visitors, and employees,
 18 the division may not employ in a state institution an individual
 19 **described in subsection (a)** who has been convicted of any of the
 20 following offenses:

- 21 (1) Rape (IC 35-42-4-1).
 22 (2) Criminal deviate conduct (IC 35-42-4-2).
 23 (3) Child molesting (IC 35-42-4-3).
 24 (4) Child exploitation (IC 35-42-4-4).

25 (c) **In addition to the requirements of subsection (b), the division**
 26 **may not employ in a state institution an individual described in**
 27 **subsection (a) who has been convicted of any of the following**
 28 **offenses after August 31, 2000:**

- 29 (1) **A sex crime (IC 35-42-4), except for a crime listed in**
 30 **subsection (b).**
 31 (2) **Exploitation of an endangered adult (IC 35-46-1-12).**
 32 (3) **Failure to report battery, neglect, or exploitation of an**
 33 **endangered adult (IC 35-46-1-13).**
 34 (4) **Theft (IC 35-43-4), if the individual's conviction for theft**
 35 **occurred less than ten (10) years before the individual's**
 36 **employment application date.**
 37 (5) **Murder (IC 35-42-1-1).**
 38 (6) **Voluntary manslaughter (IC 35-42-1-3).**
 39 (7) **Involuntary manslaughter (IC 35-42-1-4) within the**
 40 **previous five (5) years.**
 41 (8) **Felony battery (IC 35-42-2) within the previous five (5)**
 42 **years.**



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1 **(9) A felony offense relating to controlled substances**
 2 **(IC 35-48-4) within the previous five (5) years.**

3 SECTION 9. IC 12-24-3-2.5 IS ADDED TO THE INDIANA CODE
 4 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 5 1, 2000]: **Sec. 2.5. (a) This section applies to an individual who is**
 6 **hired by a state institution after August 31, 2000.**

7 **(b) A state institution may not employ an individual described**
 8 **in subsection (a) who has been convicted of any of the following**
 9 **offenses:**

10 **(1) A sex crime (IC 35-42-4).**

11 **(2) Exploitation of an endangered adult (IC 35-46-1-12).**

12 **(3) Failure to report battery, neglect, or exploitation of an**
 13 **endangered adult (IC 35-46-1-13).**

14 **(4) Theft (IC 35-43-4), if the individual's conviction for theft**
 15 **occurred less than ten (10) years before the individual's**
 16 **employment application date.**

17 **(5) Murder (IC 35-42-1-1).**

18 **(6) Voluntary manslaughter (IC 35-42-1-3).**

19 **(7) Involuntary manslaughter (IC 35-42-1-4) within the**
 20 **previous five (5) years.**

21 **(8) Felony battery (IC 35-42-2) within the previous five (5)**
 22 **years.**

23 **(9) A felony offense relating to controlled substances**
 24 **(IC 35-48-4) within the previous five (5) years.**

25 SECTION 10. IC 12-24-3.5 IS ADDED TO THE INDIANA CODE
 26 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
 27 JULY 1, 2000]:

28 **Chapter 3.5. Criminal History of Direct Care Staff Persons and**
 29 **Other Unlicensed Employees**

30 **Sec. 1. This chapter applies after August 31, 2000.**

31 **Sec. 2. (a) A state institution may not knowingly employ an**
 32 **individual as a direct care staff person or other unlicensed**
 33 **employee if the individual has been convicted of any of the offenses**
 34 **listed in:**

35 **(1) IC 12-24-3-2, if the individual was hired before September**
 36 **1, 2000; or**

37 **(2) IC 12-24-3-2.5, if the individual was hired after August 31,**
 38 **2000.**

39 **(b) In addition to the requirement of subsection (a), a state**
 40 **institution may not employ an individual as a direct care staff**
 41 **person if one (1) or more of the following conditions exists:**

42 **(1) A finding that the individual has:**



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- 1 (A) abused, neglected, or mistreated a consumer; or
- 2 (B) misappropriated a consumer's property;
- 3 has been entered into the registry of direct care staff.
- 4 (2) A finding that the individual has:
- 5 (A) abused, neglected, or mistreated a patient; or
- 6 (B) misappropriated a patient's property;
- 7 has been entered into the registry of nurse aides.

8 **Sec. 3. (a) An individual who knowingly or intentionally applies for a job as a direct care staff person at a state institution after:**

- 9 (1) the individual is convicted of at least one (1) of the offenses
- 10 listed in section 2(a) of this chapter;
- 11 (2) a finding that the individual has committed an action set
- 12 forth in section 2(b)(1) of this chapter is entered into the
- 13 registry of direct care staff; or
- 14 (3) a finding that the individual has committed an action set
- 15 forth in section 2(b)(2) of this chapter is entered into the
- 16 registry of nurse aides;

17 **commits a Class A infraction.**

18 (b) An individual who knowingly or intentionally applies for a
 19 job as an other unlicensed employee at a state institution after the
 20 individual is convicted of at least one (1) of the offenses listed in
 21 section 2(a) of this chapter commits a Class A infraction.

22 **Sec. 4. An individual who is denied employment or dismissed**
 23 **from employment under this chapter:**

- 24 (1) does not have a cause of action;
- 25 (2) is not eligible for unemployment compensation;
- 26 (3) does not acquire the rights of an unemployed individual;
- 27 and
- 28 (4) does not have other rights under IC 22;

29 **as a result of the denial or dismissal.**

30 **Sec. 5. If the registry of direct care staff does not contain any**
 31 **information for an individual who has applied for employment as**
 32 **a direct care staff person with a state institution, the director shall**
 33 **transmit the information required to be contained in the registry**
 34 **of direct care staff under IC 16-32-4-4 within three (3) business**
 35 **days after receipt of notice that there is no information regarding**
 36 **the individual in the registry of direct care staff.**

37 **Sec. 6. If the superintendent has knowledge of a conviction of an**
 38 **employee of a state institution that would indicate unfitness for**
 39 **service as a direct care staff person, other unlicensed employee, or**
 40 **other health care professional (as defined in IC 16-27-2-1), the**
 41 **superintendent shall report the information to the registry of direct**
 42 **care staff.**



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1 **care staff or the appropriate licensing authority.**

2 SECTION 11. IC 12-28-5-2, AS AMENDED BY P.L.272-1999,
3 SECTION 49, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
4 JULY 1, 2000]: Sec. 2. (a) The community residential facilities council
5 is established. The council consists of the following members
6 appointed by the governor:

7 (1) One (1) professional possessing specialized training in the
8 field of human development.

9 (2) One (1) member of the professional staff of the division of
10 disability, aging, and rehabilitative services.

11 (3) One (1) member of the professional staff of the office of
12 Medicaid policy and planning.

13 (4) One (1) member of the professional staff of the state
14 department of health.

15 (5) One (1) individual possessing a special interest in
16 developmentally disabled individuals.

17 (6) One (1) individual possessing a special interest in mentally ill
18 individuals.

19 (7) One (1) individual who is the chief executive officer of a
20 facility providing both day services and residential services for
21 developmentally disabled individuals.

22 (8) One (1) individual who is the chief executive officer of a
23 facility providing residential services only for developmentally
24 disabled individuals.

25 **(9) One (1) individual who is a member of the professional**
26 **staff of the Indiana protection and advocacy services**
27 **commission. The individual appointed under this subdivision**
28 **is an ex officio member of the council.**

29 **(10) One (1) individual who is the chief executive officer of an**
30 **entity providing only supported living services.**

31 **(11) One (1) individual who is receiving services through the**
32 **bureau of developmental disabilities services.**

33 **(12) Two (2) members of the public.**

34 (b) Except for the members designated by subsection (a)(7), ~~and~~
35 (a)(8), **and (a)(10)**, a member of the council may not have an indirect
36 or a direct financial interest in a residential facility for the
37 developmentally disabled.

38 SECTION 12. IC 12-28-5-3 IS AMENDED TO READ AS
39 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 3. The term of each
40 member of the council is four (4) years. Except for the members listed
41 in section ~~2(a)(9)~~, ~~2(a)(10)~~, **2(a)(7)**, **2(a)(8)**, and ~~2(a)(11)~~ **2(a)(10)** of
42 this chapter, members of the council may be reappointed.

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1 SECTION 13. IC 12-28-5-7 IS AMENDED TO READ AS
 2 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 7. The council shall
 3 meet at least ~~quarterly~~ **monthly**. Only the presiding officer may call
 4 additional meetings.

5 SECTION 14. IC 12-28-5-10 IS AMENDED TO READ AS
 6 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 10. In conjunction with
 7 the division of disability, aging, and rehabilitative services, the council
 8 shall do the following:

9 (1) Determine the current and projected needs of each geographic
 10 area of Indiana for residential services for developmentally
 11 disabled individuals.

12 (2) Determine how the provision of developmental or vocational
 13 services for residents in these ~~geographic~~ **geographic** areas
 14 affects the availability of developmental or vocational services to
 15 developmentally disabled individuals living in their own homes.

16 (3) Develop standards for licensure of supervised group living
 17 facilities regarding the following:

18 (A) A sanitary and safe environment for residents and
 19 employees.

20 (B) Classification of supervised group living facilities.

21 (C) Any other matters that will ensure that the residents will
 22 receive a residential environment.

23 **(4) Develop standards for the approval of entities providing
 24 supported living services.**

25 (5) Recommend social and habilitation programs to the Indiana
 26 health facilities council for developmentally disabled individuals
 27 who reside in health facilities licensed under IC 16-28.

28 ~~(5)~~ **(6)** Develop and update semiannually a report that identifies
 29 the numbers of developmentally disabled individuals who live in
 30 health facilities licensed under IC 16-28. The Indiana health
 31 facilities council shall assist in developing and updating this
 32 report.

33 SECTION 15. IC 12-28-5-11 IS AMENDED TO READ AS
 34 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 11. **(a)** A supervised
 35 group living facility must have a license or provisional license issued
 36 under this chapter to operate.

37 **(b) An entity that provides supported living services must be
 38 approved by the council under this chapter to operate.**

39 SECTION 16. IC 12-28-5-12 IS AMENDED TO READ AS
 40 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 12. **(a)** The council may
 41 license only those supervised group living facilities that:

42 (1) meet the standards established under section 10 of this

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1 chapter; and
 2 (2) are necessary to provide adequate services to developmentally
 3 disabled individuals in that geographic area.
 4 (b) A supervised group living facility described in subsection (c)
 5 may ~~only~~ locate in only one (1) of the following counties:
 6 (1) a county having a population of more than twenty-five
 7 thousand nine hundred fifty (25,950) but less than twenty-six
 8 thousand (26,000);
 9 (2) a county having a population of more than one hundred sixty
 10 thousand (160,000) but less than two hundred thousand
 11 (200,000); or
 12 (3) a county having a population of more than forty-four thousand
 13 (44,000) but less than forty-five thousand (45,000).
 14 (c) Notwithstanding 431 IAC 1.1-3-7(c) and 431 IAC 1.1-3-7(d), the
 15 council shall license one (1) supervised group living facility that is
 16 located less than one thousand (1,000) feet from another supervised
 17 group living facility or a sheltered workshop under the following
 18 conditions:
 19 (1) Both of the supervised group living facilities meet all
 20 standards for licensure as provided in section 10(3) of this
 21 chapter.
 22 (2) Both of the supervised group living facilities are built on land
 23 that is owned by one (1) private entity.
 24 (3) The community formed by the supervised group living
 25 facilities provides job opportunities for residents of the supervised
 26 group living facilities.
 27 **(d) The council may approve an entity to provide supported**
 28 **living services only if the entity meets the standards established**
 29 **under section 10 of this chapter.**
 30 SECTION 17. IC 12-28-5-13 IS AMENDED TO READ AS
 31 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 13. The council may
 32 revoke:
 33 (1) the license of a supervised group living facility; **or**
 34 (2) **the approval of an entity that provides supported living**
 35 **services;**
 36 that no longer meets the standards established under section 10 of this
 37 chapter after following the procedures prescribed by IC 4-21.5-3. If a
 38 hearing is provided for or authorized to be held by the council, the
 39 council may designate a person as its agent or representative to conduct
 40 a hearing. The agent or representative shall conduct the hearing under
 41 IC 4-21.5-3.
 42 SECTION 18. IC 12-28-5-14 IS AMENDED TO READ AS

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1 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 14. (a) The council
 2 may issue a provisional license to a facility that does not qualify for a
 3 license under section 12 of this chapter but that provides satisfactory
 4 evidence that the facility will qualify within a period prescribed by the
 5 council. The period may not exceed ~~one (1) year~~: **six (6) months**.

6 (b) **The council may issue provisional approval to an entity**
 7 **providing supported living services that does not qualify for**
 8 **approval under section 12 of this chapter but that provides**
 9 **satisfactory evidence that the entity will qualify within a period**
 10 **prescribed by the council. The period may not exceed six (6)**
 11 **months.**

12 SECTION 19. IC 16-18-2-64.6 IS ADDED TO THE INDIANA
 13 CODE AS A NEW SECTION TO READ AS FOLLOWS
 14 [EFFECTIVE UPON PASSAGE]: **Sec. 64.6. "Community based**
 15 **residential, habilitation, or vocational services provider"**, for
 16 **purposes of IC 16-32-4, has the meaning set forth in IC 16-32-4-1.**

17 SECTION 20. IC 16-18-2-94.5 IS ADDED TO THE INDIANA
 18 CODE AS A NEW SECTION TO READ AS FOLLOWS
 19 [EFFECTIVE UPON PASSAGE]: **Sec. 94.5. (a) "Direct care staff**
 20 **person"**, for purposes of IC 16-32-4, has the meaning set forth in
 21 **IC 16-32-4-2.**

22 SECTION 21. IC 16-18-2-314.5 IS ADDED TO THE INDIANA
 23 CODE AS A NEW SECTION TO READ AS FOLLOWS
 24 [EFFECTIVE JULY 1, 2000]: **Sec. 314.5. "Registry of direct care**
 25 **staff"**, for purposes of IC 16-28-13, has the meaning set forth in
 26 **IC 16-28-13-0.7.**

27 SECTION 22. IC 16-28-13-0.7 IS ADDED TO THE INDIANA
 28 CODE AS A NEW SECTION TO READ AS FOLLOWS
 29 [EFFECTIVE JULY 1, 2000]: **Sec. 0.7. As used in this chapter,**
 30 **"registry of direct care staff" refers to the registry of direct care**
 31 **staff persons maintained by the state department under IC 16-32-4.**

32 SECTION 23. IC 16-28-13-4, AS AMENDED BY P.L.108-1999,
 33 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 34 JULY 1, 2000]: Sec. 4. (a) Except as provided in subsection (b), a
 35 person who:

- 36 (1) operates or administers a health care facility; or
 37 (2) operates an entity in the business of contracting to provide
 38 nurse aides or other unlicensed employees for a health care
 39 facility;

40 shall apply within three (3) business days from the date a person is
 41 employed as a nurse aide or other unlicensed employee for a copy of
 42 the person's state nurse aide registry report **and registry of direct care**



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1 **staff report** from the state department and a limited criminal history
2 from the Indiana central repository for criminal history information
3 under IC 5-2-5 or another source allowed by law.

4 (b) A health care facility is not required to apply for the state nurse
5 aide registry report, **registry of direct care staff report**, and limited
6 criminal history required by subsection (a) if the health care facility
7 contracts to use the services of a nurse aide or other unlicensed
8 employee who is employed by an entity in the business of contracting
9 to provide nurse aides or other unlicensed employees to health care
10 facilities.

11 SECTION 24. IC 16-28-13-5, AS AMENDED BY P.L.108-1999,
12 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
13 JULY 1, 2000]: Sec. 5. A person who:

- 14 (1) operates or administers a health care facility; or
- 15 (2) operates an entity in the business of contracting to provide
16 nurse aides or other unlicensed employees for a health care
17 facility;

18 may not employ a person as a nurse aide or other unlicensed employee
19 after receipt of the person's state nurse aide registry report **or registry**
20 **of direct care staff report** if that person's report indicates that the
21 person committed an offense under section (3)(a)(2) of this chapter and
22 has been placed on the state nurse aide registry **or registry of direct**
23 **care staff**, or after receipt of the limited criminal history if that person's
24 limited criminal history indicates that the person has been convicted of
25 any of the offenses described in section 3(a)(1) of this chapter.

26 SECTION 25. IC 16-28-13-6, AS AMENDED BY P.L.108-1999,
27 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
28 JULY 1, 2000]: Sec. 6. (a) A person who:

- 29 (1) operates or administers a health care facility; or
- 30 (2) operates an entity in the business of contracting to provide
31 nurse aides or other unlicensed employees for a health care
32 facility;

33 is responsible for the payment of fees under IC 5-2-5-7 and other fees
34 required to process a state nurse aide registry report, **registry of direct**
35 **care staff report**, and a limited criminal history under section 4 of this
36 chapter.

37 (b) A health care facility or an entity in the business of contracting
38 to provide nurse aides or other unlicensed employees for a health care
39 facility may require a person who applies to the health care facility or
40 entity for employment as a nurse aide or other unlicensed employee:

- 41 (1) to pay the cost of fees described in subsection (a) to the health
42 care facility or entity at the time the person submits an application

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1 for employment; or
2 (2) to reimburse the health care facility or entity for the cost of
3 fees described in subsection (a).

4 SECTION 26. IC 16-32-4 IS ADDED TO THE INDIANA CODE
5 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
6 UPON PASSAGE]:

7 **Chapter 4. Registry of Direct Care Staff Persons**

8 **Sec. 1. As used in this chapter, "community based residential,**
9 **habilitation, or vocational services provider", means an entity**
10 **approved by the bureau of developmental disabilities services**
11 **under IC 12-11-1.1-1(e).**

12 **Sec. 2. (a) As used in this chapter, "direct care staff person"**
13 **means an individual who provides direct assistance with daily**
14 **living and personal adjustment activities to a consumer receiving**
15 **services from:**

- 16 (1) a community based residential, habilitation, or vocational
- 17 services provider;
- 18 (2) an ICF/MR serving more than eight (8) individuals; or
- 19 (3) a state institution (as defined in IC 12-7-2-184).

20 **(b) The term does not include the following:**

- 21 (1) A person who holds a license (as defined in IC 25-1-9-3)
- 22 issued by a board (as defined in IC 25-1-9-1).
- 23 (2) A nurse aide (as defined in IC 16-28-13-1).
- 24 (3) A volunteer who provides direct care services without
- 25 compensation.
- 26 (4) A member of the consumer's immediate family.

27 **Sec. 3. Not later than July 1, 2000, the state department shall**
28 **establish and maintain a registry of direct care staff persons.**

29 **Sec. 4. (a) The registry required under this chapter must contain**
30 **at least the following information regarding each direct care staff**
31 **person:**

- 32 (1) The individual's name.
- 33 (2) Information necessary to identify the individual, as
- 34 determined by the state department.
- 35 (3) The date the individual was first placed on the registry.
- 36 (4) The following information on any finding by the division
- 37 of disability, aging, and rehabilitative services under
- 38 IC 12-9-5-5 regarding abuse, neglect mistreatment, or
- 39 misappropriation of property by the individual:
- 40 (A) Documentation of the division's investigation,
- 41 including the nature of the allegation and the evidence that
- 42 led the division to conclude that the allegation was valid.

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(B) The date of the hearing, if the individual chose to have one, and its outcome.

(C) A statement by the individual disputing the allegation, if the individual chooses to make a statement.

(b) The state department shall enter the information required under subsection (a) within ten (10) working days after receipt of the information.

Sec. 5. (a) Except as provided in subsection (b), the state department shall maintain the information in the registry regarding an individual permanently.

(b) The state department shall remove information regarding an individual entered into the registry under section 4(a)(4) of this chapter if:

- (1) the division of disability, aging, and rehabilitative services notifies the state department that the finding was made in error;**
- (2) the individual was found not guilty in a court of law; or**
- (3) the state department is notified of the individual's death.**

Sec. 6. If the division of disability, aging, and rehabilitative services notifies the state department that the division has determined under IC 12-9-5-5 that a direct care staff person has neglected, abused, or mistreated a consumer or misappropriated a consumer's property, the state department shall place the information required under section 4(a)(4) of this chapter on the registry of direct care staff.

Sec. 7. The state department must disclose information under section 4(a)(4) of this chapter upon request and may disclose additional information the state department determines necessary.

Sec. 8. The state department shall promptly provide an individual with:

- (1) all information contained in the registry regarding the individual:**
 - (A) upon request by the individual; and**
 - (B) whenever a finding adverse to the individual is placed on the registry; and**
- (2) sufficient opportunity to correct any misstatements or inaccuracies contained in the registry regarding the individual.**

Sec. 9. If an entity applies to the state department for a copy of an individual's registry of nurse aides report and registry of direct care staff report, the state department shall provide a copy of both reports to the entity at the same time.

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1 **Sec. 10.** If the registry established under this chapter does not
2 contain any information regarding an individual for whom an
3 entity requests a report, the state department shall notify the entity
4 of that fact.

5 **Sec. 11.** The state department may adopt rules under IC 4-22-2,
6 including emergency rules under IC 4-22-2-37.1, to implement this
7 chapter.

8 **SECTION 27.** [EFFECTIVE JULY 1, 2000] (a) This SECTION
9 applies to the following entities:

10 (1) A community based residential, habilitation, or vocational
11 services provider (as defined in IC 12-7-2-37.5, as added by
12 this act).

13 (2) An ICF/MR (as defined in IC 16-18-2-185) serving more
14 than eight (8) individuals.

15 (3) A state institution (as defined in IC 12-7-2-184).

16 (4) An entity in the business of contracting to provide direct
17 care staff persons for an entity described in subdivision (1),
18 (2), or (3).

19 (b) As used in this SECTION, "direct care staff person" has the
20 meaning set forth in IC 12-7-2-63.5, as added by this act.

21 (c) As used in this SECTION, "registry of direct care staff"
22 refers to the registry of direct care staff persons and other
23 unlicensed employees maintained by the state department of health
24 under IC 16-32-4, as added by this act.

25 (d) Not later than August 31, 2000, an entity described in
26 subsection (a) shall transmit to the registry of direct care staff the
27 information required to be contained in the registry of direct care
28 staff under IC 16-32-4-4, as added by this act, regarding each
29 direct care staff person employed by the entity.

30 (e) If an entity described in subsection (a)(5) places an
31 individual as a direct care staff person in an entity described in
32 subsection (a)(1), (a)(2), (a)(3), or (a)(4), the entity described in
33 subsection (a)(1), (a)(2), (a)(3), or (a)(4) is not required to transmit
34 the information required by subsection (d).

35 (f) The division of disability, aging, and rehabilitative services
36 established under IC 12-9-1-1 may assess a civil penalty against a
37 person who:

38 (1) operates an entity described in subsection (a); and

39 (2) knowingly or intentionally violates subsection (d).

40 The amount of the penalty assessed under this subsection may not
41 exceed the amount of the fine that may be assessed by the state
42 department of health under IC 16-28-5-4(a)(2).

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1 **(g) Civil penalties collected under subsection (f) shall be:**
2 **(1) deposited by the division in the developmentally disabled**
3 **client services account; and**
4 **(2) used to implement IC 12-11-1.5, as added by this act, and**
5 **other quality assurance programs approved by the division.**
6 **(h) This SECTION expires September 30, 2000.**
7 **SECTION 28. [EFFECTIVE UPON PASSAGE] In establishing**
8 **and maintaining the registry of direct care staff persons and other**
9 **unlicensed employees required by IC 16-32-4, as added by this act,**
10 **the state department of health shall, to the extent possible, use the**
11 **technology of the registry of nurse aides required under 42 CFR**
12 **483.156.**
13 **SECTION 29. An emergency is declared for this act.**

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COMMITTEE REPORT

Mr. President: The Senate Committee on Rules and Legislative Procedure, to which was referred Senate Bill No. 370, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Delete everything after the enacting clause and insert the following:

(SEE TEXT OF BILL)

and when so amended that said bill be reassigned to the Senate Committee on Health and Provider Services.

(Reference is to SB 370 as introduced.)

GARTON, Chairperson

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SENATE MOTION

Mr. President: I move that Senator Craycraft be added as coauthor of Senate Bill 370.

RIEGSECKER

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COMMITTEE REPORT

Mr. President: The Senate Committee on Health and Provider Services, to which was referred Senate Bill No. 370, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 2, line 15, delete "IC 16-28-2-185" and insert "**IC 16-18-2-185**".

Page 3, line 6, delete "or".

Page 3, between lines 6 and 7, begin a new line block indented and insert:

"(3) mistreatment of a consumer; or".

Page 3, line 7, delete "(3)" and insert "**(4)**".

Page 3, line 18, delete "or".

Page 3, between lines 18 and 19, begin a new line block indented and insert:

"(3) mistreated a consumer; or".

Page 3, line 19, delete "(3)" and insert "**(4)**".

Page 3, line 22, delete "or".

Page 3, between lines 22 and 23, begin a new line block indented and insert:

"(3) mistreated a consumer; or".

Page 3, line 23, delete "(3)" and insert "**(4)**".

Page 3, line 24, after "staff" insert "**and the individual's current employer, if known to the division,**".

Page 4, line 9, delete "five (5)" and insert "**ten (10)**".

Page 4, line 10, delete ", except as provided in" and insert ".".

Page 4, delete line 11.

Page 4, line 16, after "battery" insert "**(IC 35-42-2)**".

Page 4, line 17, after "substances" insert "**(IC 35-48-4)**".

Page 5, line 6, delete "(c)" and insert "**(d)**".

Page 5, delete lines 9 through 16 and insert "**employed as a direct care staff person, apply to the state department of health for a copy of the individual's:**

(1) registry of direct care staff report; and

(2) registry of nurse aides report.

(b) Except as provided in subsection (d), a person who operates an entity described in section 2(1) or 2(3) of this chapter shall, within three (3) business days after the date an individual is employed as a direct care staff person, apply to the Indiana central repository for criminal history information under IC 5-2-5 or another source allowed by law for a copy of the individual's limited

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criminal history."

Page 5, line 17, delete "(b)" and insert "(c)".

Page 5, line 17, delete "(c)" and insert "(d)".

Page 5, line 24, delete "(c)" and insert "(d)".

Page 5, line 29, delete "(b)" and insert "(c)".

Page 7, delete lines 2 through 15.

Page 7, line 16, delete "12" and insert "11".

Page 7, line 30, delete "13" and insert "12".

Page 8, line 9, delete "14" and insert "13".

Page 8, line 18, delete "15" and insert "14".

Page 8, line 22, delete ":".

Page 8, delete line 23.

Page 8, line 24, delete "(2)".

Page 8, line 24, delete ";".

Page 8, run in lines 22 and 24.

Page 8, run in lines 24 and 25.

Page 8, between lines 33 and 34, begin a new paragraph and insert:

"(c) In addition to the requirements of subsection (b), the division may not employ in a state institution an individual described in subsection (a) who has been convicted of any of the following offenses after August 31, 2000:

(1) A sex crime (IC 35-42-4), except for a crime listed in subsection (b).

(2) Exploitation of an endangered adult (IC 35-46-1-12).

(3) Failure to report battery, neglect, or exploitation of an endangered adult (IC 35-46-1-13).

(4) Theft (IC 35-43-4), if the individual's conviction for theft occurred less than ten (10) years before the individual's employment application date.

(5) Murder (IC 35-42-1-1).

(6) Voluntary manslaughter (IC 35-42-1-3).

(7) Involuntary manslaughter (IC 35-42-1-4) within the previous five (5) years.

(8) Felony battery (IC 35-42-2) within the previous five (5) years.

(9) A felony offense relating to controlled substances (IC 35-48-4) within the previous five (5) years."

Page 8, line 36, after "who" delete ":".

Page 8, delete line 37.

Page 8, line 38, delete "(2)".

Page 8, line 38, delete "employed" and insert "**hired**".

Page 8, line 38, delete ";".



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Page 8, run in lines 36 and 38.

Page 8, run in lines 38 and 39.

Page 9, line 6, delete "five (5)" and insert "**ten (10)**".

Page 9, line 7, delete ", except as provided in" and insert ".".

Page 9, delete line 8.

Page 9, line 13, after "battery" insert "**(IC 35-42-2)**".

Page 9, line 14, after "substances" insert "**(IC 35-48-4)**".

Page 9, delete lines 25 through 40 and insert "**offenses listed in:**

(1) IC 12-24-3-2, if the individual was hired before September 1, 2000; or

(2) IC 12-24-3-2.5, if the individual was hired after August 31, 2000."

Page 10, delete lines 33 through 42.

Page 11, delete lines 1 through 4.

Page 11, line 5, delete "6" and insert "5".

Page 11, line 12, delete "7" and insert "6".

Page 14, line 35, delete "(a) "Direct care staff".

Page 14, delete lines 36 through 37.

Page 14, line 38, delete "(b)".

Page 14, run in lines 35 and 38.

Page 15, line 1, delete "IC 16-28-13.5" and insert "**IC 16-28-13**".

Page 15, line 2, delete "IC 16-28-13.5-4." and insert "**IC 16-28-13-0.7**".

Page 15, delete lines 3 through 42, begin a new paragraph and insert:

"SECTION 22. IC 16-28-13-0.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: **Sec. 0.7. As used in this chapter, "registry of direct care staff" refers to the registry of direct care staff persons maintained by the state department under IC 16-32-4.**

SECTION 23. IC 16-28-13-4, AS AMENDED BY P.L.108-1999, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 4. (a) Except as provided in subsection (b), a person who:

(1) operates or administers a health care facility; or

(2) operates an entity in the business of contracting to provide nurse aides or other unlicensed employees for a health care facility;

shall apply within three (3) business days from the date a person is employed as a nurse aide or other unlicensed employee for a copy of the person's state nurse aide registry report **and registry of direct care staff report** from the state department and a limited criminal history



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from the Indiana central repository for criminal history information under IC 5-2-5 or another source allowed by law.

(b) A health care facility is not required to apply for the state nurse aide registry report, **registry of direct care staff report**, and limited criminal history required by subsection (a) if the health care facility contracts to use the services of a nurse aide or other unlicensed employee who is employed by an entity in the business of contracting to provide nurse aides or other unlicensed employees to health care facilities.

SECTION 24. IC 16-28-13-5, AS AMENDED BY P.L.108-1999, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 5. A person who:

- (1) operates or administers a health care facility; or
- (2) operates an entity in the business of contracting to provide nurse aides or other unlicensed employees for a health care facility;

may not employ a person as a nurse aide or other unlicensed employee after receipt of the person's state nurse aide registry report **or registry of direct care staff report** if that person's report indicates that the person committed an offense under section (3)(a)(2) of this chapter and has been placed on the state nurse aide registry **or registry of direct care staff**, or after receipt of the limited criminal history if that person's limited criminal history indicates that the person has been convicted of any of the offenses described in section 3(a)(1) of this chapter.

SECTION 25. IC 16-28-13-6, AS AMENDED BY P.L.108-1999, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 6. (a) A person who:

- (1) operates or administers a health care facility; or
- (2) operates an entity in the business of contracting to provide nurse aides or other unlicensed employees for a health care facility;

is responsible for the payment of fees under IC 5-2-5-7 and other fees required to process a state nurse aide registry report, **registry of direct care staff report**, and a limited criminal history under section 4 of this chapter.

(b) A health care facility or an entity in the business of contracting to provide nurse aides or other unlicensed employees for a health care facility may require a person who applies to the health care facility or entity for employment as a nurse aide or other unlicensed employee:

- (1) to pay the cost of fees described in subsection (a) to the health care facility or entity at the time the person submits an application for employment; or

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(2) to reimburse the health care facility or entity for the cost of fees described in subsection (a)."

Delete pages 16 through 18.

Page 19, delete lines 1 through 5.

Page 19, line 20, after ";" insert "**or**".

Page 19, line 21, delete "; or" and insert ".".

Page 19, delete line 22.

Page 19, line 30, delete "The" and insert "**Not later than July 1, 2000, the**".

Page 19, line 41, before "or" insert "**mistreatment,**".

Page 20, line 25, after "neglected" delete "or" and insert ",".

Page 20, line 25, after "abused" insert ", **or mistreated**".

Page 20, line 26, delete ":".

Page 20, line 27, delete "(1)".

Page 20, line 28, delete "; and" and insert ".".

Page 20, run in lines 26 and 27.

Page 20, delete lines 29 through 30.

Page 21, delete lines 13 through 42.

Page 22, delete lines 1 through 8.

Page 22, delete line 17.

Page 22, line 18, delete "(5)" and insert "**(4)**".

Page 22, line 20, delete "(3), or (4)." and insert "**or (3)**".

Page 22, between lines 36 and 37, begin a new paragraph and insert:
"(f) The division of disability, aging, and rehabilitative services established under IC 12-9-1-1 may assess a civil penalty against a person who:

- (1) operates an entity described in subsection (a); and**
- (2) knowingly or intentionally violates subsection (d).**

The amount of the penalty assessed under this subsection may not exceed the amount of the fine that may be assessed by the state department of health under IC 16-28-5-4(a)(2).

(g) Civil penalties collected under subsection (f) shall be:

- (1) deposited by the division in the developmentally disabled client services account; and**
- (2) used to implement IC 12-11-1.5, as added by this act, and other quality assurance programs approved by the division."**

Page 22, line 37, delete "(f)" and insert "**(h)**".

C
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Y



Renumber all SECTIONS consecutively.
and when so amended that said bill do pass.

(Reference is to SB 370 as printed January 21, 2000.)

MILLER, Chairperson

Committee Vote: Yeas 6, Nays 1.

C
o
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y

