



Reprinted  
February 2, 2000

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## SENATE BILL No. 370

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DIGEST OF SB 370 (Updated February 1, 2000 2:03 PM - DI 98)

**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:** Human services. 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 specified entities 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. Provides for the establishment of procedures to investigate allegations of specified types of misconduct and to report substantiated findings. Allows DDARS to assess a civil penalty for noncompliance.

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

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### Riegsecker, Craycraft

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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.  
February 1, 2000, read second time, amended, ordered engrossed.

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SB 370—LS 7200/DI 13+



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Reprinted  
February 2, 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.

## 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 any of  
13 the following entities:**

- 14 (1) A community based residential, habilitation, or vocational  
15 services provider (as defined in section 37.5 of this chapter).  
16 (2) An ICF/MR (as defined in IC 16-18-2-185) serving more  
17 than eight (8) individuals.

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- 1           **(3) A state institution (as defined in section 184 of this**
- 2           **chapter).**
- 3           **(b) The term does not include the following:**
- 4           **(1) A person who holds a license (as defined in IC 25-1-9-3)**
- 5           **issued by a board (as defined in IC 25-1-9-1).**
- 6           **(2) A volunteer who provides direct care services without**
- 7           **compensation.**
- 8           **(3) A member of the consumer's immediate family.**

9           SECTION 3. IC 12-7-2-135.6 IS ADDED TO THE INDIANA  
 10           CODE AS A NEW SECTION TO READ AS FOLLOWS  
 11           [EFFECTIVE JULY 1, 2000]: **Sec. 135.6. (a) "Other unlicensed**  
 12           **employee", for purposes of IC 12-11-1.5 and IC 12-24-3.5, means**  
 13           **an employee of any of the following entities:**

- 14           **(1) A community based residential, habilitation, or vocational**
- 15           **services provider (as defined in section 37.5 of this chapter).**
- 16           **(2) An ICF/MR (as defined in IC 16-18-2-185) serving more**
- 17           **than eight (8) individuals.**
- 18           **(3) A state institution (as defined in section 184 of this**
- 19           **chapter).**

- 20           **(b) The term does not include the following:**
- 21           **(1) A direct care staff person (as defined in section 63.5 of this**
- 22           **chapter).**
- 23           **(2) A person who holds a license (as defined in IC 25-1-9-3)**
- 24           **issued by a board (as defined in IC 25-1-9-1).**

25           SECTION 4. IC 12-7-2-159.3 IS ADDED TO THE INDIANA  
 26           CODE AS A NEW SECTION TO READ AS FOLLOWS  
 27           [EFFECTIVE JULY 1, 2000]: **Sec. 159.3. "Registry of direct care**  
 28           **staff", for purposes of IC 12-9-5, IC 12-11-1.5, and IC 12-24-3.5,**  
 29           **refers to the registry of direct care staff persons maintained by the**  
 30           **state department of health under IC 16-32-4.**

31           SECTION 5. IC 12-7-2-159.5 IS ADDED TO THE INDIANA  
 32           CODE AS A NEW SECTION TO READ AS FOLLOWS  
 33           [EFFECTIVE JULY 1, 2000]: **Sec. 159.5. "Registry of nurse aides",**  
 34           **for purposes of IC 12-11-1.5 and IC 12-24-3.5, refers to the registry**  
 35           **of nurse aides maintained by the state department of health under**  
 36           **42 CFR 483.156.**

37           SECTION 6. IC 12-9-5-5 IS ADDED TO THE INDIANA CODE  
 38           AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
 39           1, 2000]: **Sec. 5. (a) This section applies to a direct care staff person**  
 40           **employed by one of the following entities:**

- 41           **(1) A community based residential, habilitation, or vocational**
- 42           **services provider.**



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- 1           (2) An ICF/MR (as defined in IC 16-18-2-185) serving more
- 2           than eight (8) individuals.
- 3           (3) A state institution, except for an individual who is a
- 4           regular employee (as defined in IC 4-15-2-3.7).
- 5           (b) Not later than September 1, 2000, the division shall establish
- 6           a procedure for the receipt and the timely review and investigation
- 7           of allegations of:
- 8           (1) neglect of a consumer;
- 9           (2) abuse of a consumer;
- 10          (3) mistreatment of a consumer; or
- 11          (4) misappropriation of a consumer's property;
- 12          by a direct care staff person of an entity described in subsection
- 13          (a).
- 14          (c) The procedure required under subsection (b) must allow for:
- 15          (1) reasonable notice to the direct care staff person;
- 16          (2) reasonable opportunity for a hearing before an
- 17          administrative law judge in which the direct care staff person
- 18          may rebut the allegation; and
- 19          (3) judicial review of a final order issued by an administrative
- 20          law judge.
- 21          (d) The division shall, after following the procedure required
- 22          under this section, make a finding whether the direct care staff
- 23          person:
- 24          (1) neglected a consumer;
- 25          (2) abused a consumer;
- 26          (3) mistreated a consumer; or
- 27          (4) misappropriated a consumer's property.
- 28          (e) If the division determines that a direct care staff person has:
- 29          (1) neglected a consumer;
- 30          (2) abused a consumer;
- 31          (3) mistreated a consumer; or
- 32          (4) misappropriated a consumer's property;
- 33          the division shall notify the registry of direct care staff and the
- 34          individual's current employer, if known to the division, of that
- 35          determination.
- 36          (f) The division may adopt rules under IC 4-22-2, including
- 37          emergency rules under IC 4-22-2-37.1, to implement this section.
- 38          SECTION 7. IC 12-11-1.5 IS ADDED TO THE INDIANA CODE
- 39          AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
- 40          JULY 1, 2000]:
- 41          Chapter 1.5. Criminal History of Direct Care Staff Persons and
- 42          Other Unlicensed Employees

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- 1           **Sec. 1. This chapter applies after August 31, 2000.**  
 2           **Sec. 2. This chapter applies to the following entities:**  
 3           (1) A community based residential, habilitation, or vocational  
 4           services provider.  
 5           (2) An ICF/MR facility (as defined in IC 16-18-2-185) serving  
 6           more than eight (8) individuals.  
 7           (3) An entity in the business of contracting to provide direct  
 8           care staff persons or other unlicensed employees for an entity  
 9           described in subdivision (1) or (2).  
 10          **Sec. 3. (a) An entity described in section 2 of this chapter may**  
 11          **not knowingly employ an individual as a direct care staff person or**  
 12          **other unlicensed employee if the individual has been convicted of**  
 13          **any of the following:**  
 14          (1) A sex crime (IC 35-42-4).  
 15          (2) Exploitation of an endangered adult (IC 35-46-1-12).  
 16          (3) Failure to report battery, neglect, or exploitation of an  
 17          endangered adult (IC 35-46-1-13).  
 18          (4) Theft (IC 35-43-4), if the individual's conviction for theft  
 19          occurred less than ten (10) years before the individual's  
 20          employment application date.  
 21          (5) Murder (IC 35-42-1-1).  
 22          (6) Voluntary manslaughter (IC 35-42-1-3).  
 23          (7) Involuntary manslaughter (IC 35-42-1-4) within the  
 24          previous five (5) years.  
 25          (8) Felony battery (IC 35-42-2) within the previous five (5)  
 26          years.  
 27          (9) A felony offense relating to controlled substances  
 28          (IC 35-48-4) within the previous five (5) years.  
 29          **(b) In addition to the requirement of subsection (a), an entity**  
 30          **described in section 2 of this chapter may not employ an individual**  
 31          **as a direct care staff person if one (1) or more of the following**  
 32          **conditions exists:**  
 33          (1) A finding that the individual has:  
 34                (A) abused, neglected, or mistreated a consumer; or  
 35                (B) misappropriated a consumer's property;  
 36          has been entered into the registry of direct care staff.  
 37          (2) A finding that the individual has:  
 38                (A) abused, neglected, or mistreated a patient; or  
 39                (B) misappropriated a patient's property;  
 40          has been entered into the registry of nurse aides.  
 41          **Sec. 4. (a) Except as provided in subsection (d), a person who**  
 42          **operates an entity described in section 2 of this chapter shall,**



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1 within three (3) business days after the date an individual is  
 2 employed as a direct care staff person, apply to the state  
 3 department of health for a copy of the individual's:

4 (1) registry of direct care staff report; and

5 (2) registry of nurse aides report.

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

13 (c) Except as provided in subsection (d), a person who operates  
 14 an entity described in section 2(1) or 2(3) of this chapter shall,  
 15 within three (3) business days after the date an individual is  
 16 employed as an other unlicensed employee, apply to the Indiana  
 17 central repository for criminal history information under IC 5-2-5  
 18 or another source allowed by law for a copy of the individual's  
 19 limited criminal history.

20 (d) If an entity described in section 2(3) of this chapter places  
 21 an individual as a direct care staff person or other unlicensed  
 22 employee in an entity described in section 2(1) or 2(2) of this  
 23 chapter, the entity described in section 2(1) or 2(2) of this chapter  
 24 is not required to apply for the documents required by subsection  
 25 (a), (b), or (c) regarding the individual.

26 Sec. 5. (a) Except as provided in subsection (b), if the registry of  
 27 direct care staff does not contain any information regarding an  
 28 individual who has applied for employment as a direct care staff  
 29 person with an entity described in section 2 of this chapter, the  
 30 entity shall transmit the information required to be contained in  
 31 the registry of direct care staff under IC 16-32-4-4 within three (3)  
 32 business days after receipt of notice that there is no information  
 33 regarding the individual in the registry of direct care staff.

34 (b) If an entity described in section 2(3) of this chapter places an  
 35 individual as a direct care staff person in an entity described in  
 36 section 2(1) or 2(2), the entity described in section 2(1) or 2(2) of  
 37 this chapter is not required to transmit the information required  
 38 by subsection (a).

39 Sec. 6. (a) A person who operates an entity described in section  
 40 2 of this chapter may not employ an individual as a direct care staff  
 41 person after receipt of the individual's:

42 (1) registry of direct care staff report, if the report indicates

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1 that the individual has been found to have committed an  
2 action set forth in section 3(b)(1) of this chapter;

3 (2) registry of nurse aides report, if the report indicates that  
4 the individual has been found to have committed an action set  
5 forth in section 3(b)(2) of this chapter; or

6 (3) limited criminal history, if the limited criminal history  
7 indicates that the individual has been convicted of any of the  
8 offenses listed in section 3(a) of this chapter.

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

14 Sec. 7. (a) A person who operates an entity described in section  
15 2 of this chapter is responsible for the payment of fees under  
16 IC 5-2-5-7 and other fees required to process a registry of direct  
17 care staff report, a registry of nurse aides report, and a limited  
18 criminal history under this chapter.

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

21 (1) to pay the cost of fees described in subsection (a) to the  
22 entity at the time the individual submits an application for  
23 employment; or

24 (2) to reimburse the entity for the cost of fees described in  
25 subsection (a).

26 Sec. 8. The application of this chapter to an entity described in  
27 section 2 of this chapter is limited to an individual:

28 (1) who is employed by the entity; and

29 (2) whose employment or responsibilities are limited to  
30 activities primarily performed within an entity described in  
31 section 2(1) or 2(2) of this chapter.

32 Sec. 9. An individual who is denied employment or dismissed  
33 from employment under this chapter:

34 (1) does not have a cause of action;

35 (2) is not eligible for unemployment compensation;

36 (3) does not acquire the rights of an unemployed individual;  
37 and

38 (4) does not have other rights under IC 22;

39 as a result of the denial or dismissal.

40 Sec. 10. (a) The division may assess a civil penalty against a  
41 person who:

42 (1) operates an entity described in section 2 of this chapter;

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- 1           **and**  
 2           **(2) knowingly or intentionally violates section 3, 4, 5, or 6 of**  
 3           **this chapter.**  
 4           **(b) The amount of the penalty assessed under subsection (a) may**  
 5           **not exceed the amount of the fine that may be assessed by the state**  
 6           **department of health under IC 16-28-5-4(a)(2).**  
 7           **(c) Civil penalties collected under this section shall be:**  
 8               **(1) deposited by the division in the developmentally disabled**  
 9               **client services account; and**  
 10              **(2) used to implement this chapter and other quality**  
 11              **assurance programs approved by the division.**  
 12           **Sec. 11. (a) Each entity described in section 2 of this chapter**  
 13           **shall maintain a personnel record for each direct care staff person**  
 14           **and other unlicensed employee employed by the entity. The**  
 15           **personnel record must include the documents required under:**  
 16               **(1) section 4(a) of this chapter for a direct care staff person;**  
 17               **or**  
 18               **(2) section 4(b) of this chapter for an other unlicensed**  
 19               **employee.**  
 20           **(b) The personnel records required under subsection (a) shall be**  
 21           **available for inspection by the division to assure compliance with**  
 22           **this chapter.**  
 23           **(c) If an entity described in section 2(3) of this chapter provides**  
 24           **a direct care staff person or other unlicensed employee to an entity**  
 25           **described in section 2(1) or 2(2) of this chapter, the entity described**  
 26           **in section 2(3) of this chapter shall provide a copy of the documents**  
 27           **required under subsection (a) to the entity described in section 2(1)**  
 28           **or 2(2) of this chapter. If an entity described in section 2(3) of this**  
 29           **chapter fails to provide a document described in subsection (a) to**  
 30           **an entity described in section 2(1) or 2(2) of this chapter, the entity**  
 31           **described in section 2(1) or 2(2) of this chapter is not in violation**  
 32           **of this chapter.**  
 33           **Sec. 12. If an entity described in section 2 of this chapter has**  
 34           **knowledge of a conviction of an employee of the entity that would**  
 35           **indicate unfitness for service as a direct care staff person, other**  
 36           **unlicensed employee, or other health care professional (as defined**  
 37           **in IC 16-27-2-1), the entity shall report the information to:**  
 38               **(1) the division;**  
 39               **(2) the registry of direct care staff, if the employee is a direct**  
 40               **care staff person; or**  
 41               **(3) the appropriate licensing authority.**  
 42           **Sec. 13. The division may adopt rules under IC 4-22-2, including**



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1 **emergency rules under IC 4-22-2-37.1, to implement this chapter.**

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

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

- 10 (1) Rape (IC 35-42-4-1).  
11 (2) Criminal deviate conduct (IC 35-42-4-2).  
12 (3) Child molesting (IC 35-42-4-3).  
13 (4) Child exploitation (IC 35-42-4-4).

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

- 18 (1) A sex crime (IC 35-42-4), except for a crime listed in  
19 subsection (b).  
20 (2) Exploitation of an endangered adult (IC 35-46-1-12).  
21 (3) Failure to report battery, neglect, or exploitation of an  
22 endangered adult (IC 35-46-1-13).  
23 (4) Theft (IC 35-43-4), if the individual's conviction for theft  
24 occurred less than ten (10) years before the individual's  
25 employment application date.  
26 (5) Murder (IC 35-42-1-1).  
27 (6) Voluntary manslaughter (IC 35-42-1-3).  
28 (7) Involuntary manslaughter (IC 35-42-1-4) within the  
29 previous five (5) years.  
30 (8) Felony battery (IC 35-42-2) within the previous five (5)  
31 years.  
32 (9) A felony offense relating to controlled substances  
33 (IC 35-48-4) within the previous five (5) years.

34 SECTION 9. IC 12-24-3-2.5 IS ADDED TO THE INDIANA CODE  
35 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
36 1, 2000]: Sec. 2.5. (a) **This section applies to an individual who is**  
37 **hired by a state institution after August 31, 2000.**

38 (b) A state institution may not employ an individual described  
39 in subsection (a) who has been convicted of any of the following  
40 offenses:

- 41 (1) A sex crime (IC 35-42-4).  
42 (2) Exploitation of an endangered adult (IC 35-46-1-12).



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

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

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

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

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

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

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

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

17 **Chapter 3.5. Criminal History of Direct Care Staff Persons and**  
18 **Other Unlicensed Employees**

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

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

24 (1) IC 12-24-3-2, if the individual was hired before September  
25 1, 2000; or

26 (2) IC 12-24-3-2.5, if the individual was hired after August 31,  
27 2000.

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

31 (1) A finding that the individual has:

32 (A) abused, neglected, or mistreated a consumer; or

33 (B) misappropriated a consumer's property;

34 has been entered into the registry of direct care staff.

35 (2) A finding that the individual has:

36 (A) abused, neglected, or mistreated a patient; or

37 (B) misappropriated a patient's property;

38 has been entered into the registry of nurse aides.

39 **Sec. 3. If the registry of direct care staff does not contain any**  
40 **information for an individual who has applied for employment as**  
41 **a direct care staff person with a state institution, the director shall**  
42 **transmit the information required to be contained in the registry**



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1 of direct care staff under IC 16-32-4-4 within three (3) business  
2 days after receipt of notice that there is no information regarding  
3 the individual in the registry of direct care staff.

4 Sec. 4. If the superintendent has knowledge of a conviction of an  
5 employee of a state institution that would indicate unfitness for  
6 service as a direct care staff person, other unlicensed employee, or  
7 other health care professional (as defined in IC 16-27-2-1), the  
8 superintendent shall report the information to the registry of direct  
9 care staff or the appropriate licensing authority.

10 Sec. 5. The division may not require an individual who applies  
11 for employment as a direct care staff person or an other unlicensed  
12 employee to pay the cost of fees under IC 5-2-5-7 and other fees  
13 required to process a registry of direct care staff report, a registry  
14 of nurse aides report, or a limited criminal history under this  
15 chapter.

16 Sec. 6. (a) This section applies to an individual who is:

- 17 (1) employed by a state institution as a direct care staff
- 18 person; and
- 19 (2) a regular employee (as defined in IC 4-15-2-3.7).

20 (b) If an individual described in subsection (a) is discharged  
21 from employment for abuse, neglect, or mistreatment of a  
22 consumer or misappropriation of a consumer's property and  
23 either:

- 24 (1) the individual fails to file or continue to pursue a
- 25 complaint or grievance under a formal complaint or
- 26 grievance process recognized by the state; or
- 27 (2) the discharge of the individual has not been overturned
- 28 under a formal complaint or grievance process recognized by
- 29 the state;

30 the division shall notify the registry of direct care staff of the  
31 finding of abuse, neglect, mistreatment, or misappropriation of  
32 property.

33 (c) An individual described in subsection (a) who is covered by  
34 a labor agreement shall continue to be covered by the labor  
35 agreement and subject to the terms and conditions of that  
36 agreement or any successor agreement.

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

- 42 (1) One (1) professional possessing specialized training in the

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- 1 field of human development.
- 2 (2) One (1) member of the professional staff of the division of
- 3 disability, aging, and rehabilitative services.
- 4 (3) One (1) member of the professional staff of the office of
- 5 Medicaid policy and planning.
- 6 (4) One (1) member of the professional staff of the state
- 7 department of health.
- 8 (5) One (1) individual possessing a special interest in
- 9 developmentally disabled individuals.
- 10 (6) One (1) individual possessing a special interest in mentally ill
- 11 individuals.
- 12 (7) One (1) individual who is the chief executive officer of a
- 13 facility providing both day services and residential services for
- 14 developmentally disabled individuals.
- 15 (8) One (1) individual who is the chief executive officer of a
- 16 facility providing residential services only for developmentally
- 17 disabled individuals.
- 18 **(9) One (1) individual who is a member of the professional**
- 19 **staff of the Indiana protection and advocacy services**
- 20 **commission. The individual appointed under this subdivision**
- 21 **is an ex officio member of the council.**
- 22 **(10) One (1) individual who is the chief executive officer of an**
- 23 **entity providing only supported living services.**
- 24 **(11) One (1) individual who is receiving services through the**
- 25 **bureau of developmental disabilities services.**
- 26 **(12) Two (2) members of the public.**
- 27 (b) Except for the members designated by subsection (a)(7), ~~and~~
- 28 ~~(a)(8), and (a)(10)~~, a member of the council may not have an indirect
- 29 or a direct financial interest in a residential facility for the
- 30 developmentally disabled.
- 31 SECTION 12. IC 12-28-5-3 IS AMENDED TO READ AS
- 32 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 3. The term of each
- 33 member of the council is four (4) years. Except for the members listed
- 34 in section ~~2(a)(9); 2(a)(10); 2(a)(7), 2(a)(8), and 2(a)(11)~~ **2(a)(10)** of
- 35 this chapter, members of the council may be reappointed.
- 36 SECTION 13. IC 12-28-5-7 IS AMENDED TO READ AS
- 37 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 7. The council shall
- 38 meet at least ~~quarterly~~ **monthly**. Only the presiding officer may call
- 39 additional meetings.
- 40 SECTION 14. IC 12-28-5-10 IS AMENDED TO READ AS
- 41 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 10. In conjunction with
- 42 the division of disability, aging, and rehabilitative services, the council

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shall do the following:

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

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

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

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

(B) Classification of supervised group living facilities.

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

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

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

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

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

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

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

(1) meet the standards established under section 10 of this chapter; and

(2) are necessary to provide adequate services to developmentally disabled individuals in that geographic area.

(b) A supervised group living facility described in subsection (c) may ~~only~~ locate in only one (1) of the following counties:

(1) a county having a population of more than twenty-five thousand nine hundred fifty (25,950) but less than twenty-six

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- 1 thousand (26,000);
- 2 (2) a county having a population of more than one hundred sixty
- 3 thousand (160,000) but less than two hundred thousand
- 4 (200,000); or
- 5 (3) a county having a population of more than forty-four thousand
- 6 (44,000) but less than forty-five thousand (45,000).

7 (c) Notwithstanding 431 IAC 1.1-3-7(c) and 431 IAC 1.1-3-7(d), the  
 8 council shall license one (1) supervised group living facility that is  
 9 located less than one thousand (1,000) feet from another supervised  
 10 group living facility or a sheltered workshop under the following  
 11 conditions:

- 12 (1) Both of the supervised group living facilities meet all
- 13 standards for licensure as provided in section 10(3) of this
- 14 chapter.
- 15 (2) Both of the supervised group living facilities are built on land
- 16 that is owned by one (1) private entity.
- 17 (3) The community formed by the supervised group living
- 18 facilities provides job opportunities for residents of the supervised
- 19 group living facilities.

20 **(d) The council may approve an entity to provide supported**  
 21 **living services only if the entity meets the standards established**  
 22 **under section 10 of this chapter.**

23 SECTION 17. IC 12-28-5-13 IS AMENDED TO READ AS  
 24 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 13. The council may  
 25 revoke:

- 26 (1) the license of a supervised group living facility; or
- 27 (2) **the approval of an entity that provides supported living**
- 28 **services;**

29 that no longer meets the standards established under section 10 of this  
 30 chapter after following the procedures prescribed by IC 4-21.5-3. If a  
 31 hearing is provided for or authorized to be held by the council, the  
 32 council may designate a person as its agent or representative to conduct  
 33 a hearing. The agent or representative shall conduct the hearing under  
 34 IC 4-21.5-3.

35 SECTION 18. IC 12-28-5-14 IS AMENDED TO READ AS  
 36 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 14. (a) The council  
 37 may issue a provisional license to a facility that does not qualify for a  
 38 license under section 12 of this chapter but that provides satisfactory  
 39 evidence that the facility will qualify within a period prescribed by the  
 40 council. The period may not exceed ~~one (1) year~~ **six (6) months**.

41 **(b) The council may issue provisional approval to an entity**  
 42 **providing supported living services that does not qualify for**

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1 approval under section 12 of this chapter but that provides  
 2 satisfactory evidence that the entity will qualify within a period  
 3 prescribed by the council. The period may not exceed six (6)  
 4 months.

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

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

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

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

25 SECTION 23. IC 16-28-13-4, AS AMENDED BY P.L.108-1999,  
 26 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 27 JULY 1, 2000]: Sec. 4. (a) Except as provided in subsection (b), a  
 28 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 shall apply within three (3) business days from the date a person is  
 34 employed as a nurse aide or other unlicensed employee for a copy of  
 35 the person's state nurse aide registry report **and registry of direct care**  
 36 **staff report** from the state department and a limited criminal history  
 37 from the Indiana central repository for criminal history information  
 38 under IC 5-2-5 or another source allowed by law.

39 (b) A health care facility is not required to apply for the state nurse  
 40 aide registry report, **registry of direct care staff report**, and limited  
 41 criminal history required by subsection (a) if the health care facility  
 42 contracts to use the services of a nurse aide or other unlicensed



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1 employee who is employed by an entity in the business of contracting  
 2 to provide nurse aides or other unlicensed employees to health care  
 3 facilities.

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

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

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

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

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

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

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

- 34 (1) to pay the cost of fees described in subsection (a) to the health
- 35 care facility or entity at the time the person submits an application
- 36 for employment; or
- 37 (2) to reimburse the health care facility or entity for the cost of
- 38 fees described in subsection (a).

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

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

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

5           **Sec. 2. (a)** As used in this chapter, "direct care staff person"  
6 means an individual who provides direct assistance with daily  
7 living and personal adjustment activities to a consumer receiving  
8 services from any of the following entities:

- 9                   (1) A community based residential, habilitation, or vocational  
10 services provider.
- 11                   (2) An ICF/MR serving more than eight (8) individuals.
- 12                   (3) A state institution (as defined in IC 12-7-2-184).

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

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

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

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

- 25                   (1) The individual's name.
- 26                   (2) Information necessary to identify the individual, as  
27 determined by the state department.
- 28                   (3) The date the individual was first placed on the registry.
- 29                   (4) If a finding that the individual has abused, neglected, or  
30 mistreated a consumer or misappropriated a consumer's  
31 property has been made, the following information:

- 32                           (A) Documentation of the investigation, including the  
33 nature of the allegation and the evidence that led to the  
34 conclusion that the allegation was valid.
- 35                           (B) The date of any hearing, if the individual chose to have  
36 one, and its outcome.
- 37                           (C) A statement by the individual disputing the allegation,  
38 if the individual chooses to make a statement.

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

42           **Sec. 5. (a)** Except as provided in subsection (b), the state

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1 department shall maintain the information in the registry  
2 regarding an individual permanently.

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

6 (1) the division of disability, aging, and rehabilitative services  
7 notifies the state department that the finding was made in  
8 error;

9 (2) the individual was found not guilty in a court of law; or

10 (3) the state department is notified of the individual's death.

11 Sec. 6. If the division of disability, aging, and rehabilitative  
12 services notifies the state department that the requirements of  
13 IC 12-9-5-5 or IC 12-24-3.5-7 have been met to place a finding of  
14 abuse, neglect, or mistreatment of a consumer or misappropriation  
15 of a consumer's property by an individual on the registry of direct  
16 care staff, the state department shall place the information  
17 required under section 4(a)(4) of this chapter on the registry of  
18 direct care staff.

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

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

24 (1) all information contained in the registry regarding the  
25 individual:

26 (A) upon request by the individual; and

27 (B) whenever a finding adverse to the individual is placed  
28 on the registry; and

29 (2) sufficient opportunity to correct any misstatements or  
30 inaccuracies contained in the registry regarding the  
31 individual.

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

36 Sec. 10. If the registry established under this chapter does not  
37 contain any information regarding an individual for whom an  
38 entity requests a report, the state department shall notify the entity  
39 of that fact.

40 Sec. 11. The state department may adopt rules under IC 4-22-2,  
41 including emergency rules under IC 4-22-2-37.1, to implement this  
42 chapter.



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

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

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

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

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

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

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

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

23 (e) If an entity described in subsection (a)(4) places an  
24 individual as a direct care staff person in an entity described in  
25 subsection (a)(1), (a)(2), or (a)(3), the entity described in subsection  
26 (a)(1), (a)(2), or (a)(3) is not required to transmit the information  
27 required by subsection (d).

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

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

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

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

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

41 (h) This SECTION expires September 30, 2000.

42 SECTION 28. [EFFECTIVE UPON PASSAGE] In establishing

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1 **and maintaining the registry of direct care staff persons and other**  
2 **unlicensed employees required by IC 16-32-4, as added by this act,**  
3 **the state department of health shall, to the extent possible, use the**  
4 **technology of the registry of nurse aides required under 42 CFR**  
5 **483.156.**

6 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)**".

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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.

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## SENATE MOTION

Mr. President: I move that Senate Bill 370 be amended to read as follows:

Page 1, line 12, after "from" insert "**any of the following entities**".

Page 1, line 13, delete "a" and insert "A".

Page 1, line 14, delete ";" and insert ".".

Page 1, line 15, delete "an" and insert "An".

Page 1, line 16, delete "; or" and insert ".".

Page 1, line 17, delete "a" and insert "A".

Page 2, line 12, after "of" insert "**any of the following entities**".

Page 2, line 13, delete "a" and insert "A".

Page 2, line 14, delete ";" and insert ".".

Page 2, line 15, delete "an" and insert "An".

Page 2, line 16, delete "; or" and insert ".".

Page 2, line 17, delete "a" and insert "A".

Page 2, line 38, after "to" insert "**a direct care staff person employed by one of**".

Page 3, line 1, after "institution" insert ", **except for an individual who is a regular employee (as defined in IC 4-15-2-3.7)**".

Page 3, line 12, delete "and".

Page 3, line 13, after "hearing" insert "**before an administrative law judge**".

Page 3, line 14, delete "." and insert "; **and**".

Page 3, between lines 14 and 15, begin a new line block indented and insert:

**"(3) judicial review of a final order issued by an administrative law judge."**

Page 4, delete lines 35 through 42.

Page 5, delete lines 1 through 9.

Page 5, line 10, delete "5" and insert "4".

Page 5, line 25, delete "2" and insert "**2(1) or 2(3)**".

Page 5, line 36, after "(a)" insert ", **(b)**".

Page 5, line 37, delete "6" and insert "5".

Page 6, line 8, delete "7" and insert "6".

Page 6, line 25, delete "8" and insert "7".

Page 6, line 37, delete "9" and insert "8".

Page 7, line 1, delete "10" and insert "9".

Page 7, line 9, delete "11" and insert "10".

Page 7, line 13, before "5" insert "4,".

Page 7, line 13, before "6" insert "**or**".

Page 7, line 13, delete ", or 7".

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Page 7, line 23, delete "12" and insert "**11**".

Page 7, line 27, delete "5(a)" and insert "**4(a)**".

Page 7, line 29, delete "5(b)" and insert "**4(b)**".

Page 8, line 2, delete "13" and insert "**12**".

Page 8, line 11, delete "14" and insert "**13**".

Page 10, delete lines 8 through 30.

Page 10, line 31, delete "5" and insert "**3**".

Page 10, line 38, delete "6" and insert "**4**".

Page 11, between lines 1 and 2, begin a new paragraph and insert:

**"Sec. 5. The division may not require an individual who applies for employment as a direct care staff person or an other unlicensed employee to pay the cost of fees under IC 5-2-5-7 and other fees required to process a registry of direct care staff report, a registry of nurse aides report, or a limited criminal history under this chapter.**

**Sec. 6. (a) This section applies to an individual who is:**

**(1) employed by a state institution as a direct care staff person; and**

**(2) a regular employee (as defined in IC 4-15-2-3.7).**

**(b) If an individual described in subsection (a) is discharged from employment for abuse, neglect, or mistreatment of a consumer or misappropriation of a consumer's property and either:**

**(1) the individual fails to file or continue to pursue a complaint or grievance under a formal complaint or grievance process recognized by the state; or**

**(2) the discharge of the individual has not been overturned under a formal complaint or grievance process recognized by the state;**

**the division shall notify the registry of direct care staff of the finding of abuse, neglect, mistreatment, or misappropriation of property.**

**(c) An individual described in subsection (a) who is covered by a labor agreement shall continue to be covered by the labor agreement and subject to the terms and conditions of that agreement or any successor agreement."**

Page 14, line 19, delete "(a)".

Page 16, line 15, after "from" insert "**any of the following entities**".

Page 16, line 16, delete "a" and insert "**A**".

Page 16, line 17, delete ";" and insert ".".

Page 16, line 18, delete "an" and insert "**An**".

Page 16, line 18, delete "; or" and insert ".".



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Page 16, line 19, delete "a" and insert "A".

Page 16, line 36, delete "The" and insert "**If a finding that the individual has abused, neglected, or mistreated a consumer or misappropriated a consumer's property has been made, the**".

Page 16, line 36, delete "on any finding by the division" and insert ":",

Page 16, delete lines 37 through 39.

Page 16, line 40, delete "division's".

Page 16, line 42, delete "the division".

Page 16, line 42, delete "conclude" and insert "**the conclusion**".

Page 17, line 1, before "hearing" delete "the" and insert "**any**".

Page 17, line 20, delete "division has" and insert "**requirements of IC 12-9-5-5 or IC 12-24-3.5-7 have been met to place a finding of abuse, neglect, or mistreatment of a consumer or misappropriation of a consumer's property by an individual on the registry of direct care staff,**".

Page 17, delete lines 21 through 22.

Page 17, line 23, delete "a consumer's property,".

Page 18, line 30, delete "(a)(5)" and insert "**(a)(4)**".

Page 18, line 32, before "(a)(3)" insert "**or**".

Page 18, line 32, delete "or (a)(4),".

Page 18, line 33, before "(a)(3)" insert "**or**".

Page 18, line 33, delete ", or (a)(4),".

Renumber all SECTIONS consecutively.

(Reference is to SB 370 as printed January 28, 2000.)

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