



April 12, 2011

**ENGROSSED
SENATE BILL No. 331**

DIGEST OF SB 331 (Updated April 12, 2011 2:13 pm - DI 77)

Citations Affected: IC 4-21.5; IC 10-13; IC 12-7; IC 12-9; IC 12-9.1; IC 12-10; IC 12-11; IC 12-12; IC 12-14; IC 12-15; IC 12-17.2; IC 35-46; noncode.

Synopsis: FSSA matters. Authorizes the division of aging, the bureau of aging services, the division of disability and rehabilitative services, and the bureau of developmental disabilities services to issue certain notice orders and citations against a provider that violates certain rules. Allows the Indiana state police to release criminal background check information concerning the maintenance of a provider's license. Requires the division of aging to establish standards of practice governing the services provided by the adult protective services unit. Requires the Alzheimer's disease and related senile dementia task force (task force) to develop a state plan concerning the provision of Alzheimer's and related senile dementia services and sunsets the task force on December 31, 2013. Reduces the statewide independent living council from a minimum of 20 members to a minimum of 11 members. Requires a family to be provided a cash assistance benefit of at least \$10 under the Temporary Assistance for Needy Families (TANF)
(Continued next page)

Effective: July 1, 2011.

Miller, Gard, Simpson, Randolph

(HOUSE SPONSORS — BROWN T, BROWN C)

January 11, 2011, read first time and referred to Committee on Health and Provider Services.

February 17, 2011, amended, reported favorably — Do Pass.

February 21, 2011, read second time, amended, ordered engrossed.

February 22, 2011, engrossed. Read third time, passed. Yeas 49, nays 0.

HOUSE ACTION

March 28, 2011, read first time and referred to Committee on Public Health.

April 12, 2011, amended, reported — Do Pass.

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ES 331—LS 6501/DI 104+



Digest Continued

program if certain income standards and employment earnings are met. Specifies that access to a child support enforcement program and IMPACT (JOBS) training program are included as TANF services for certain eligible families. Deems that a Medicaid recipient has automatically assigned certain medical support rights for the duration of the recipient's enrollment in Medicaid. Changes the time after which certain Medicaid program changes may take effect from 45 to 30 days after issuance of the notice or bulletin concerning the change. Removes language from the definition of "Medicaid inpatient days" concerning dually eligible individuals. Specifies that certain recreation programs for school age children may be exempt from licensure requirements. Transfers administrative rules concerning aging to the division of aging. Requires the probate study commission to study how to amend probate law concerning the sale of real estate to satisfy certain claims. Repeals: (1) a provision that requires the adult protective services unit and the division of aging to destroy any records concerning a report concerning an endangered adult that is unsubstantiated; (2) expiration dates for the office of the secretary of family and social services, the office of Medicaid policy and planning, the statutes concerning directors of divisions within family and social services (FSSA), and certain advisory committees under the FSSA statutes; (3) the law concerning Alzheimer's disease and related senile dementia programs; and (4) the law concerning supplemental payments for ambulance transportation services. Makes technical changes.

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April 12, 2011

First Regular Session 117th General Assembly (2011)

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 2010 Regular Session of the General Assembly.

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ENGROSSED SENATE BILL No. 331

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 4-21.5-3-6, AS AMENDED BY P.L.35-2010,
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2011]: Sec. 6. (a) Notice shall be given under this section
4 concerning the following:
5 (1) A safety order under IC 22-8-1.1.
6 (2) Any order that:
7 (A) imposes a sanction on a person or terminates a legal right,
8 duty, privilege, immunity, or other legal interest of a person;
9 (B) is not described in section 4 or 5 of this chapter or
10 IC 4-21.5-4; and
11 (C) by statute becomes effective without a proceeding under
12 this chapter if there is no request for a review of the order
13 within a specified period after the order is issued or served.
14 (3) A notice of program reimbursement or equivalent
15 determination or other notice regarding a hospital's

ES 331—LS 6501/DI 104+



1 reimbursement issued by the office of Medicaid policy and
 2 planning or by a contractor of the office of Medicaid policy and
 3 planning regarding a hospital's year end cost settlement.
 4 (4) A determination of audit findings or an equivalent
 5 determination by the office of Medicaid policy and planning or by
 6 a contractor of the office of Medicaid policy and planning arising
 7 from a Medicaid postpayment or concurrent audit of a hospital's
 8 Medicaid claims.
 9 (5) A license revocation under:
 10 (A) IC 24-4.4-2;
 11 (B) IC 24-4.5-3;
 12 (C) IC 28-1-29;
 13 (D) IC 28-7-5;
 14 (E) IC 28-8-4; or
 15 (F) IC 28-8-5.
 16 **(6) An order issued by the:**
 17 **(A) division of aging or the bureau of aging services; or**
 18 **(B) division of disability and rehabilitative services or the**
 19 **bureau of developmental disabilities services;**
 20 **against providers regulated by the division of aging or the**
 21 **bureau of developmental disabilities services and not licensed**
 22 **by the state department of health under IC 16-27 or IC 16-28.**
 23 (b) When an agency issues an order described by subsection (a), the
 24 agency shall give notice to the following persons:
 25 (1) Each person to whom the order is specifically directed.
 26 (2) Each person to whom a law requires notice to be given.
 27 A person who is entitled to notice under this subsection is not a party
 28 to any proceeding resulting from the grant of a petition for review
 29 under section 7 of this chapter unless the person is designated as a
 30 party in the record of the proceeding.
 31 (c) The notice must include the following:
 32 (1) A brief description of the order.
 33 (2) A brief explanation of the available procedures and the time
 34 limit for seeking administrative review of the order under section
 35 7 of this chapter.
 36 (3) Any other information required by law.
 37 (d) An order described in subsection (a) is effective fifteen (15) days
 38 after the order is served, unless a statute other than this article specifies
 39 a different date or the agency specifies a later date in its order. This
 40 subsection does not preclude an agency from issuing, under
 41 IC 4-21.5-4, an emergency or other temporary order concerning the
 42 subject of an order described in subsection (a).

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1 (e) If a petition for review of an order described in subsection (a) is
 2 filed within the period set by section 7 of this chapter and a petition for
 3 stay of effectiveness of the order is filed by a party or another person
 4 who has a pending petition for intervention in the proceeding, an
 5 administrative law judge shall, as soon as practicable, conduct a
 6 preliminary hearing to determine whether the order should be stayed in
 7 whole or in part. The burden of proof in the preliminary hearing is on
 8 the person seeking the stay. The administrative law judge may stay the
 9 order in whole or in part. The order concerning the stay may be issued
 10 after an order described in subsection (a) becomes effective. The
 11 resulting order concerning the stay shall be served on the parties and
 12 any person who has a pending petition for intervention in the
 13 proceeding. It must include a statement of the facts and law on which
 14 it is based.

15 SECTION 2. IC 10-13-3-27, AS AMENDED BY P.L.44-2009,
 16 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 17 JULY 1, 2011]: Sec. 27. (a) Except as provided in subsection (b), on
 18 request, a law enforcement agency shall release a limited criminal
 19 history to or allow inspection of a limited criminal history by
 20 noncriminal justice organizations or individuals only if the subject of
 21 the request:

- 22 (1) has applied for employment with a noncriminal justice
 23 organization or individual;
- 24 (2) has:
 - 25 (A) applied for a license **or is maintaining a license;** and ~~has~~
 - 26 (B) provided criminal history data as required by law to be
 27 provided in connection with the license;
- 28 (3) is a candidate for public office or a public official;
- 29 (4) is in the process of being apprehended by a law enforcement
 30 agency;
- 31 (5) is placed under arrest for the alleged commission of a crime;
- 32 (6) has charged that the subject's rights have been abused
 33 repeatedly by criminal justice agencies;
- 34 (7) is the subject of a judicial decision or determination with
 35 respect to the setting of bond, plea bargaining, sentencing, or
 36 probation;
- 37 (8) has volunteered services that involve contact with, care of, or
 38 supervision over a child who is being placed, matched, or
 39 monitored by a social services agency or a nonprofit corporation;
- 40 (9) is currently residing in a location designated by the
 41 department of child services (established by IC 31-25-1-1) or by
 42 a juvenile court as the out-of-home placement for a child at the

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- 1 time the child will reside in the location;
- 2 (10) has volunteered services at a public school (as defined in
- 3 IC 20-18-2-15) or nonpublic school (as defined in IC 20-18-2-12)
- 4 that involve contact with, care of, or supervision over a student
- 5 enrolled in the school;
- 6 (11) is being investigated for welfare fraud by an investigator of
- 7 the division of family resources or a county office of the division
- 8 of family resources;
- 9 (12) is being sought by the parent locator service of the child
- 10 support bureau of the department of child services;
- 11 (13) is or was required to register as a sex or violent offender
- 12 under IC 11-8-8; or
- 13 (14) has been convicted of any of the following:
- 14 (A) Rape (IC 35-42-4-1), if the victim is less than eighteen
- 15 (18) years of age.
- 16 (B) Criminal deviate conduct (IC 35-42-4-2), if the victim is
- 17 less than eighteen (18) years of age.
- 18 (C) Child molesting (IC 35-42-4-3).
- 19 (D) Child exploitation (IC 35-42-4-4(b)).
- 20 (E) Possession of child pornography (IC 35-42-4-4(c)).
- 21 (F) Vicarious sexual gratification (IC 35-42-4-5).
- 22 (G) Child solicitation (IC 35-42-4-6).
- 23 (H) Child seduction (IC 35-42-4-7).
- 24 (I) Sexual misconduct with a minor as a felony (IC 35-42-4-9).
- 25 (J) Incest (IC 35-46-1-3), if the victim is less than eighteen
- 26 (18) years of age.

27 However, limited criminal history information obtained from the
 28 National Crime Information Center may not be released under this
 29 section except to the extent permitted by the Attorney General of the
 30 United States.

31 (b) A law enforcement agency shall allow inspection of a limited
 32 criminal history by and release a limited criminal history to the
 33 following noncriminal justice organizations:

- 34 (1) Federally chartered or insured banking institutions.
- 35 (2) Officials of state and local government for any of the
- 36 following purposes:
 - 37 (A) Employment with a state or local governmental entity.
 - 38 (B) Licensing.
- 39 (3) Segments of the securities industry identified under 15 U.S.C.
- 40 78q(f)(2).

41 (c) Any person who knowingly or intentionally uses limited criminal
 42 history for any purpose not specified under this section commits a

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1 Class A misdemeanor.

2 SECTION 3. IC 12-7-2-168 IS AMENDED TO READ AS
3 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 168. "Respite care"
4 means the following:

5 (1) For purposes of ~~IC 12-10-4~~ and IC 12-10-5, temporary care or
6 supervision of an individual with Alzheimer's disease or a related
7 senile dementia that is provided because the individual's family
8 or caretaker is temporarily unable or unavailable to provide
9 needed care.

10 (2) For purposes of IC 12-22-1, the meaning set forth in
11 IC 12-22-1-1.

12 SECTION 4. IC 12-9-2-3 IS AMENDED TO READ AS FOLLOWS
13 [EFFECTIVE JULY 1, 2011]: Sec. 3. (a) The director may do the
14 following:

15 (1) Employ experts and consultants to assist the division in
16 carrying out the division's functions.

17 (2) Utilize, with their consent, the services and facilities of other
18 state agencies without reimbursement.

19 (3) Accept in the name of the division, for use in carrying out the
20 functions of the division, money or property received by gift,
21 bequest, or otherwise.

22 (4) Accept voluntary and uncompensated services.

23 (5) Expend money made available to the division according to
24 policies enforced by the budget agency.

25 (6) Adopt rules under IC 4-22-2 necessary to carry out the
26 functions of the division. However, rules adopted by the director
27 must be approved by the family and social services committee
28 established by IC 12-8-3-2 before submission to the attorney
29 general under IC 4-22-2-31.

30 (7) Establish and implement the policies and procedures
31 necessary to carry out the functions of the division.

32 **(8) Issue orders under IC 4-21.5-3-6.**

33 ~~(8)~~ **(9)** Perform any other acts necessary to carry out the functions
34 of the division.

35 (b) The director shall compile information and statistics from each
36 bureau concerning the ethnicity and gender of a program or service
37 recipient. The director may adopt rules under IC 4-22-2 necessary to
38 implement this subsection.

39 SECTION 5. IC 12-9.1-2-3, AS ADDED BY P.L.141-2006,
40 SECTION 38, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
41 JULY 1, 2011]: Sec. 3. (a) The director may do the following:

42 (1) Employ experts and consultants to assist the division in

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- 1 carrying out the division's functions.
- 2 (2) Use, with their consent, the services and facilities of other
- 3 state agencies without reimbursement.
- 4 (3) Accept in the name of the division, for use in carrying out the
- 5 functions of the division, money or property received by gift,
- 6 bequest, or otherwise.
- 7 (4) Accept voluntary and uncompensated services.
- 8 (5) Expend money made available to the division according to
- 9 policies enforced by the budget agency.
- 10 (6) Adopt rules under IC 4-22-2 necessary to carry out the
- 11 functions of the division. However, rules adopted by the director
- 12 must be approved by the family and social services committee
- 13 established by IC 12-8-3-2 before submission to the attorney
- 14 general under IC 4-22-2-31.
- 15 (7) Establish and implement the policies and procedures
- 16 necessary to carry out the functions of the division.
- 17 **(8) Issue orders under IC 4-21.5-3-6.**
- 18 ~~(8)~~ **(9)** Perform any other acts necessary to carry out the functions
- 19 of the division.
- 20 (b) The director shall compile information and statistics from each
- 21 bureau concerning the ethnicity and gender of a program or service
- 22 recipient. The director may adopt rules under IC 4-22-2 necessary to
- 23 implement this subsection.
- 24 SECTION 6. IC 12-10-1-4 IS AMENDED TO READ AS
- 25 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 4. The bureau shall
- 26 perform the following duties:
- 27 (1) Provide a comprehensive and coordinated service system for
- 28 Indiana's aging population, giving high priority to those
- 29 individuals in greatest need.
- 30 (2) Conduct studies and research into the needs and problems of
- 31 the aging.
- 32 (3) Ensure participation by the aging in the planning and
- 33 operation of all phases of the system.
- 34 (4) Provide a focal point for advocacy, coordination, monitoring,
- 35 and evaluation of programs for the aging and the aged.
- 36 (5) Provide for the performance of any other functions required by
- 37 regulations established under the Older Americans Act (42 U.S.C.
- 38 3001 et seq.).
- 39 (6) Function as the sole state agency to develop a comprehensive
- 40 plan to meet the needs of the aged.
- 41 (7) Evaluate programs, services, and facilities for the aged and
- 42 determine the extent to which those programs, services, and

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- 1 facilities meet the needs of the aged.
- 2 (8) Coordinate programs, services, and facilities furnished for the
- 3 aged by state agencies and make recommendations regarding
- 4 those programs, services, and facilities to the governor and the
- 5 general assembly.
- 6 (9) Receive and disburse federal money made available for
- 7 providing services to the aged or related purposes.
- 8 (10) Administer any state plan for the aging required by federal
- 9 law.
- 10 (11) Provide consultation and assistance to communities and
- 11 groups developing local services for the aged.
- 12 (12) Promote community education regarding the problems of the
- 13 aged through institutes, publications, radio, television, and the
- 14 press.
- 15 (13) Cooperate with agencies of the federal government in studies
- 16 and conferences designed to examine the needs of the aged and
- 17 prepare programs and facilities to meet those needs.
- 18 (14) Establish and maintain information and referral sources
- 19 throughout Indiana when not provided by other agencies.
- 20 (15) Act, in accordance with regulations established under the
- 21 Older Americans Act (42 U.S.C. 3001 et seq.), as the agent for
- 22 providing state money to the area agencies on aging designated in
- 23 each planning and service region in Indiana.
- 24 (16) Initiate, evaluate, and provide assistance for improving
- 25 programs in cooperation with all other state agencies having
- 26 concerns or responsibility for the aged.
- 27 (17) Conduct an annual conference on the problems of the aging
- 28 and the aged.
- 29 (18) Designate area agencies on aging in each planning and
- 30 service region in Indiana.
- 31 (19) Examine the needs of the aged and prepare programs and
- 32 facilities to meet those needs.
- 33 **(20) Issue orders under IC 4-21.5-3-6 when necessary in**
- 34 **accordance with section 7 of this chapter.**
- 35 SECTION 7. IC 12-10-1-7 IS ADDED TO THE INDIANA CODE
- 36 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
- 37 1, 2011]: **Sec. 7. (a) Upon a determination by the bureau that a**
- 38 **provider has violated this article or a rule adopted under this**
- 39 **article, the director shall issue a citation under IC 4-21.5-3-6 to the**
- 40 **provider. The citation must state the following:**
- 41 **(1) The nature of the violation.**
- 42 **(2) The classification of the violation.**

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- 1 **(3) The corrective actions required of the provider to remedy**
- 2 **the breach and to protect clients of the provider.**
- 3 **(4) Any penalty imposed on the provider.**
- 4 **(b) A person aggrieved by a citation issued under this section**
- 5 **may request a review under IC 4-21.5-3-7. If a request for a**
- 6 **hearing is not filed within the fifteen (15) day period, the**
- 7 **determination contained in the citation is final.**
- 8 **(c) The bureau may impose the following remedies for a**
- 9 **violation of this article or a rule adopted under this article:**
- 10 **(1) Issuance of an order for immediate correction of the**
- 11 **violation.**
- 12 **(2) Imposition of a fine not to exceed ten thousand dollars**
- 13 **(\$10,000).**
- 14 **(3) Suspension of new clients by the provider for a period not**
- 15 **to exceed ninety (90) days.**
- 16 **(4) Revocation of the provider's license or issuance of a**
- 17 **probationary license.**
- 18 **(5) A requirement that the provider comply with any plan of**
- 19 **correction approved or directed by the division.**
- 20 **(d) In determining appropriate remedies under this section for**
- 21 **a violation, the bureau shall consider the following:**
- 22 **(1) Whether the violation occurred for reasons beyond the**
- 23 **provider's control.**
- 24 **(2) Whether the provider has demonstrated that the provider**
- 25 **has taken the appropriate steps to reasonably ensure that the**
- 26 **violation will not recur.**
- 27 **(3) The history of violations by the provider.**
- 28 **(4) The effect of the violation on the client.**
- 29 **(5) The degree of the violation.**
- 30 **SECTION 8. IC 12-10-3-12 IS AMENDED TO READ AS**
- 31 **FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 12. The division shall**
- 32 **establish the following:**
- 33 **(1) A statewide toll free telephone line continuously open to**
- 34 **receive reports of suspected neglect, battery, or exploitation.**
- 35 **(2) Standards of practice established with the concurrence of**
- 36 **the prosecuting attorneys council of Indiana (IC 33-39-8-2)**
- 37 **and governing the services provided by the adult protective**
- 38 **services unit.**
- 39 **SECTION 9. IC 12-10-5-10 IS AMENDED TO READ AS**
- 40 **FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 10. (a) The task force**
- 41 **shall assist the division in carrying out the division's duties under**
- 42 **~~IC 12-10-4~~ and IC 12-10-5.5. including the formulation of rules**

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~~adopted under IC 12-10-4.~~

~~(b) The task force shall do the following:~~

- ~~(1) Identify areas of concern to be addressed by the division.~~
- ~~(2) Compile available research in the area of Alzheimer's disease or related senile dementia.~~
- ~~(3) Recommend services to the division to meet the needs of individuals with Alzheimer's disease or related senile dementia; including the needs of the individual's families.~~
- ~~(4) Recommend the development of training materials by the division for persons who care for or provide services to individuals with Alzheimer's disease or related senile dementia.~~

develop a state plan concerning the provision of services in the area of Alzheimer's disease or related senile dementia.

SECTION 10. IC 12-10-5-11 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: **Sec. 11. This chapter expires December 31, 2013.**

SECTION 11. IC 12-11-1.1-1, AS AMENDED BY P.L.22-2010, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 1. (a) The bureau of developmental disabilities services is established within the division.

(b) The bureau shall plan, coordinate, and administer the provision of individualized, integrated community based services for individuals with a developmental disability and their families, within the limits of available resources. The planning and delivery of services must be based on future plans of the individual with a developmental disability rather than on traditional determinations of eligibility for discrete services, with an emphasis on the preferences of the individual with a developmental disability and that individual's family.

(c) Services for individuals with a developmental disability must be services that meet the following conditions:

- (1) Are provided under public supervision.
- (2) Are designed to meet the developmental needs of individuals with a developmental disability.
- (3) Meet all required state and federal standards.
- (4) Are provided by qualified personnel.
- (5) To the extent appropriate, are provided in home and community based settings in which individuals without disabilities participate.
- (6) Are provided in conformity with a service plan developed under IC 12-11-2.1-2.

(d) The bureau shall approve entities to provide community based

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1 services and supports. Beginning July 1, 2011, the bureau shall ensure
2 that an entity approved to provide ~~adult~~ day services, identified day
3 habilitation, **including facility based or community based**
4 **habilitation, prevocational services,** or vocational services under
5 home and community based services waivers is accredited by at least
6 one (1) of the following organizations:

- 7 (1) The Commission on Accreditation of Rehabilitation Facilities
- 8 (CARF), or its successor.
- 9 (2) The Council on Quality and Leadership In Supports for People
- 10 with Disabilities, or its successor.
- 11 (3) The Joint Commission on Accreditation of Healthcare
- 12 Organizations (JCAHO), or its successor.
- 13 (4) The National Committee for Quality Assurance, or its
- 14 successor.
- 15 (5) The ISO-9001 human services QA system.
- 16 (6) An independent national accreditation organization approved
- 17 by the secretary.

18 (e) The bureau shall approve and monitor community based
19 residential, habilitation, and vocational service providers that provide
20 alternatives to placement of individuals with a developmental disability
21 in state institutions and health facilities licensed under IC 16-28 for
22 individuals with a developmental disability. The services must
23 simulate, to the extent feasible, patterns and conditions of everyday life
24 that are as close as possible to normal. The community based service
25 categories include the following:

- 26 (1) Supervised group living programs, which serve at least four
- 27 (4) individuals and not more than eight (8) individuals, are funded
- 28 by Medicaid, and are licensed by the community residential
- 29 facilities council.
- 30 (2) Supported living service arrangements to meet the unique
- 31 needs of individuals in integrated settings. Supported living
- 32 service arrangements providing residential services may not serve
- 33 more than four (4) unrelated individuals in any one (1) setting.
- 34 However, the head of the bureau shall waive this limitation for a
- 35 setting providing residential services to more than four (4)
- 36 unrelated individuals in any one (1) setting if the setting was in
- 37 existence on June 30, 1999.

38 (f) To the extent that services described in subsection (e) are
39 available and meet the individual's needs, an individual is entitled to
40 receive services in the least restrictive environment possible.

41 (g) Community based services under subsection (e)(1) or (e)(2)
42 must consider the needs of and provide choices and options for:

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- 1 (1) individuals with a developmental disability; and
- 2 (2) families of individuals with a developmental disability.
- 3 (h) The bureau shall administer a system of service coordination to
- 4 carry out this chapter.
- 5 (i) **The bureau may issue orders under IC 4-21.5-3-6 against a**
- 6 **provider that violates rules issued by the bureau for programs in**
- 7 **which the provider is providing services in accordance with section**
- 8 **11 of this chapter.**
- 9 SECTION 12. IC 12-11-1.1-11 IS ADDED TO THE INDIANA
- 10 CODE AS A NEW SECTION TO READ AS FOLLOWS
- 11 [EFFECTIVE JULY 1, 2011]: **Sec. 11. (a) Upon a determination by**
- 12 **the bureau that a provider has violated this article or a rule**
- 13 **adopted under this article, the director shall issue a citation under**
- 14 **IC 4-21.5-3-6 to the provider. The citation must state the following:**
- 15 (1) **The nature of the violation.**
- 16 (2) **The classification of the violation.**
- 17 (3) **The corrective actions required of the provider to remedy**
- 18 **the breach and to protect clients of the provider.**
- 19 (4) **Any penalty imposed on the provider.**
- 20 (b) **A person aggrieved by a citation issued under this section**
- 21 **may request a review under IC 4-21.5-3-7. If a request for a**
- 22 **hearing is not filed within the fifteen (15) day period, the**
- 23 **determination contained in the citation is final.**
- 24 (c) **The bureau may impose the following remedies for a**
- 25 **violation of this article or a rule adopted under this article:**
- 26 (1) **Issuance of an order for immediate correction of the**
- 27 **violation.**
- 28 (2) **Imposition of a fine not to exceed ten thousand dollars**
- 29 **(\$10,000).**
- 30 (3) **Suspension of new clients by the provider for a period not**
- 31 **to exceed ninety (90) days.**
- 32 (4) **Revocation of the provider's license or issuance of a**
- 33 **probationary license.**
- 34 (5) **A requirement that the provider comply with any plan of**
- 35 **correction approved or directed by the division.**
- 36 (d) **In determining appropriate remedies under this section for**
- 37 **a violation, the bureau shall consider the following:**
- 38 (1) **Whether the violation occurred for reasons beyond the**
- 39 **provider's control.**
- 40 (2) **Whether the provider has demonstrated that the provider**
- 41 **has taken the appropriate steps to reasonably ensure that the**
- 42 **violation will not recur.**

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1 **(3) The history of violations by the provider.**

2 **(4) The effect of the violation on the client.**

3 **(5) The degree of the violation.**

4 SECTION 13. IC 12-12-8-6, AS AMENDED BY P.L.182-2009(ss),
5 SECTION 298, IS AMENDED TO READ AS FOLLOWS
6 [EFFECTIVE JULY 1, 2011]: Sec. 6. (a) There is established a
7 statewide independent living council. The council is not a part of a
8 state agency.

9 (b) The council consists of at least ~~twenty (20)~~ **eleven (11)** members
10 appointed by the governor, including the following:

11 (1) At least one (1) director of a center for independent living
12 located in Indiana chosen by the directors of the centers for
13 independent living located in Indiana.

14 (2) Nonvoting members from state agencies that provide services
15 for individuals with disabilities.

16 (3) Other members, who may include the following:

17 (A) Representatives of centers for independent living.

18 (B) Parents and guardians of individuals with disabilities.

19 (C) Advocates for individuals with disabilities.

20 (D) Representatives from private business.

21 (E) Representatives of organizations that provide services for
22 individuals with disabilities.

23 (F) Other appropriate individuals.

24 (c) The members appointed under subsection (b) must:

25 (1) provide statewide representation;

26 (2) represent a broad range of individuals with disabilities from
27 diverse backgrounds;

28 (3) be knowledgeable about centers for independent living and
29 independent living services; and

30 (4) include a majority of members who:

31 (A) are individuals with disabilities; and

32 (B) are not employed by a state agency or a center for
33 independent living.

34 SECTION 14. IC 12-14-2-5.1, AS AMENDED BY P.L.161-2007,
35 SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
36 JULY 1, 2011]: Sec. 5.1. (a) Subject to section 5.2 of this chapter, a
37 parent or an essential person may not receive payments if the person
38 has received assistance under this article during the person's lifetime
39 for twenty-four (24) months after June 30, 1995.

40 (b) ~~Subject to the time limits contained in subsection (a); a person~~
41 **who qualifies for A family receiving TANF** under section 5 of this
42 chapter remains ~~categorically~~ eligible to receive TANF ~~assistance when~~

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1 the person becomes employed and the person's family's net earnings
2 from employment calculated under rules adopted by the director of the
3 division under IC 4-22-2; in combination with other sources of family
4 income; **services, including access to the Title IV-D child support
5 enforcement program and the IMPACT (JOBS) program, when
6 the family's income** is greater than the amount of need recognized
7 under section 5 of this chapter, but the family's gross income is less
8 than one hundred percent (100%) of the federal income poverty level.

9 (c) **A recipient family shall receive a cash assistance benefit
10 under the TANF program of at least ten dollars (\$10) if:**

- 11 (1) **the family's income is greater than the amount of need**
- 12 **recognized under section 5 of this chapter;**
- 13 (2) **the family's gross income is less than one hundred percent**
- 14 **(100%) of the federal income poverty level; and**
- 15 (3) **a parent or essential person receiving assistance has**
- 16 **employment earnings.**

17 SECTION 15. IC 12-14-28-1 IS AMENDED TO READ AS
18 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 1. As used in this
19 chapter, "qualifying family" means a family that meets all the following
20 conditions:

- 21 (1) The family consists of:
- 22 (A) a pregnant woman;
- 23 (B) a child who is less than eighteen (18) years of age; or
- 24 (C) a child who is at least eighteen (18) years of age but less
- 25 than twenty-four (24) years of age who is attending secondary
- 26 or post secondary school at least half-time.
- 27 (2) The child described in subdivision (1)(B) or (1)(C) resides
- 28 with a custodial parent or other adult caretaker relative, which
- 29 may include a child that may be temporarily living away from the
- 30 custodial parent or other adult caretaker relative while attending
- 31 school.
- 32 (3) The gross family income is less than ~~two hundred fifty percent~~
- 33 **four hundred percent (400%)** of the federal poverty
- 34 level.

35 SECTION 16. IC 12-15-2-16.5 IS ADDED TO THE INDIANA
36 CODE AS A **NEW SECTION TO READ AS FOLLOWS**
37 [EFFECTIVE JULY 1, 2011]: **Sec. 16.5. (a) An individual who is**
38 **applying for Medicaid or receiving Medicaid is considered to have**
39 **automatically assigned to the state the individual's rights, or the**
40 **rights of any other person who is dependent upon the individual**
41 **and eligible for Medicaid, to medical support and other third party**
42 **payments for medical care for the duration of enrollment in the**

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- 1 **Medicaid program by the individual or the individual's dependent.**
- 2 **(b) An individual's assignment under subsection (a):**
- 3 **(1) is effective only for services that are reimbursed by**
- 4 **Medicaid; and**
- 5 **(2) does not apply to Medicare payments.**

6 SECTION 17. IC 12-15-13-6, AS AMENDED BY P.L.15-2009,
 7 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 8 JULY 1, 2011]: Sec. 6. (a) Except as provided by IC 12-15-35-50, a
 9 notice or bulletin that is issued by:

- 10 (1) the office;
- 11 (2) a contractor of the office; or
- 12 (3) a managed care plan under the office;

13 concerning a change to the Medicaid program that does not require use
 14 of the rulemaking process under IC 4-22-2 may not become effective
 15 until ~~forty-five (45)~~ **thirty (30)** days after the date the notice or bulletin
 16 is communicated to the parties affected by the notice or bulletin.

17 (b) The office must provide a written notice or bulletin described in
 18 subsection (a) within five (5) business days after the date on the notice
 19 or bulletin.

20 SECTION 18. IC 12-15-13-7 IS AMENDED TO READ AS
 21 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 7. (a) The office and an
 22 entity with which the office contracts for the payment of claims shall
 23 accept claims submitted on any of the following forms by an individual
 24 or organization that is a contractor or subcontractor of the office:

- 25 (1) ~~HCFA-1500~~; **CMS-1500**.
- 26 (2) ~~HCFA-1450 (UB92)~~; **CMS-1450 (UB04)**.
- 27 (3) American Dental Association (ADA) claim form.
- 28 (4) Pharmacy and compound drug form.

29 (b) The office and an entity with which the office contracts for the
 30 payment of claims:

- 31 (1) may designate as acceptable claim forms other than a form
 32 listed in subsection (a); and
- 33 (2) may not mandate the use of a crossover claim form.

34 SECTION 19. IC 12-15-16-2 IS AMENDED TO READ AS
 35 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 2. (a) For purposes of
 36 disproportionate share eligibility, a provider's Medicaid inpatient
 37 utilization rate is a fraction (expressed as a percentage) where:

- 38 (1) the numerator is the provider's total number of Medicaid
 39 inpatient days in the most recent year for which an audited cost
 40 report is on file with the office; and
- 41 (2) the denominator is the total number of the provider's inpatient
 42 days in the most recent year for which an audited cost report is on

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file with the office.

(b) For purposes of this section, "Medicaid inpatient days" includes all acute care days attributable to individuals eligible for Medicaid benefits under a state plan approved under 42 U.S.C. 1396a on the days of service:

- (1) whether attributable to individuals eligible for Medicaid in Indiana or any other state;
- (2) even if the office did not make payment for any services, including inpatient days that are determined to be medically necessary but for which payment is denied by the office for other reasons; and
- (3) including days attributable to Medicaid beneficiaries receiving services through a managed care organization or health maintenance organization.

However, a day is not a Medicaid inpatient day for purposes of this section if the patient was entitled to both Medicare Part A (as defined in 42 U.S.C. 1395c) and Medicaid on that day.

SECTION 20. IC 12-17.2-2-8, AS AMENDED BY P.L.1-2005, SECTION 136, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 8. The division shall exempt from licensure the following programs:

- (1) A program for children enrolled in grades kindergarten through 12 that is operated by the department of education or a public or private school.
- (2) A program for children who become at least three (3) years of age as of December 1 of a particular school year (as defined in IC 20-18-2-17) that is operated by the department of education or a public or private school.
- (3) A nonresidential program for a child that provides child care for less than four (4) hours a day.
- (4) A recreation program for **school age** children that operates for not more than ninety (90) days in a calendar year.
- (5) A program whose primary purpose is to provide social, recreational, or religious activities for school age children, such as scouting, boys club, girls club, sports, or the arts.
- (6) A program operated to serve migrant children that:
 - (A) provides services for children from migrant worker families; and
 - (B) is operated during a single period of less than one hundred twenty (120) consecutive days during a calendar year.
- (7) A child care ministry registered under IC 12-17.2-6.
- (8) A child care home if the provider:

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- 1 (A) does not receive regular compensation;
- 2 (B) cares only for children who are related to the provider;
- 3 (C) cares for less than six (6) children, not including children
- 4 for whom the provider is a parent, stepparent, guardian,
- 5 custodian, or other relative; or
- 6 (D) operates to serve migrant children.
- 7 (9) A child care program operated by a public or private
- 8 secondary school that:
 - 9 (A) provides day care on the school premises for children of a
 - 10 student or an employee of the school;
 - 11 (B) complies with health, safety, and sanitation standards as
 - 12 determined by the division under section 4 of this chapter for
 - 13 child care centers or in accordance with a variance or waiver
 - 14 of a rule governing child care centers approved by the division
 - 15 under section 10 of this chapter; and
 - 16 (C) substantially complies with the fire and life safety rules as
 - 17 determined by the state fire marshal under rules adopted by the
 - 18 division under section 4 of this chapter for child care centers
 - 19 or in accordance with a variance or waiver of a rule governing
 - 20 child care centers approved by the division under section 10 of
 - 21 this chapter.
- 22 (10) A school age child care program (commonly referred to as a
- 23 latch key program) established under IC 20-26-5-2 that is
- 24 operated by:
 - 25 (A) the department of education;
 - 26 (B) a public or private school; or
 - 27 (C) a public or private organization under a written contract
 - 28 with:
 - 29 (i) the department of education; or
 - 30 (ii) a public or private school.
- 31 SECTION 21. IC 35-46-1-13, AS AMENDED BY P.L.141-2006,
- 32 SECTION 112, IS AMENDED TO READ AS FOLLOWS
- 33 [EFFECTIVE JULY 1, 2011]: Sec. 13. (a) A person who:
 - 34 (1) believes or has reason to believe that an endangered adult is
 - 35 the victim of battery, neglect, or exploitation as prohibited by this
 - 36 chapter, IC 35-42-2-1(a)(2)(C), or IC 35-42-2-1(a)(2)(E); and
 - 37 (2) knowingly fails to report the facts supporting that belief to the
 - 38 division of disability and rehabilitative services, the division of
 - 39 aging, the adult protective services unit designated under
 - 40 IC 12-10-3, or a law enforcement agency having jurisdiction over
 - 41 battery, neglect, or exploitation of an endangered adult;
 - 42 commits a Class B misdemeanor.

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1 (b) An officer or employee of the division or adult protective
 2 services unit who unlawfully discloses information contained in the
 3 records of the division of aging under IC 12-10-3-12 through
 4 ~~IC 12-10-3-16~~ **IC 12-10-3-15** commits a Class C infraction.

5 (c) A law enforcement agency that receives a report that an
 6 endangered adult is or may be a victim of battery, neglect, or
 7 exploitation as prohibited by this chapter, IC 35-42-2-1(a)(2)(C), or
 8 IC 35-42-2-1(a)(2)(E) shall immediately communicate the report to the
 9 adult protective services unit designated under IC 12-10-3.

10 (d) An individual who discharges, demotes, transfers, prepares a
 11 negative work performance evaluation, reduces benefits, pay, or work
 12 privileges, or takes other action to retaliate against an individual who
 13 in good faith makes a report under IC 12-10-3-9 concerning an
 14 endangered individual commits a Class A infraction.

15 SECTION 22. THE FOLLOWING ARE REPEALED [EFFECTIVE
 16 JULY 1, 2011]: IC 12-8-1-10; IC 12-8-2-12; IC 12-8-6-10; IC 12-8-8-8;
 17 IC 12-10-3-16; IC 12-10-4; IC 12-15-14.5.

18 SECTION 23. [EFFECTIVE JULY 1, 2011] (a) **The publisher of
 19 the Indiana Administrative Code shall transfer rules concerning
 20 aging from the title of the Indiana Administrative Code for the
 21 division of disability and rehabilitative services to a new title for
 22 the division of aging. The rules that are to be transferred under
 23 this subsection include the following:**

- 24 (1) 460 IAC 1.
 25 (2) 460 IAC 1.2.
 26 (3) 460 IAC 8.

27 (b) **The office of the secretary of family and social services shall
 28 assist the publisher of the Indiana Administrative Code in
 29 identifying any other rules concerning aging that are to be
 30 transferred under subsection (a).**

31 (c) **This SECTION expires December 31, 2011.**

32 SECTION 24. [EFFECTIVE JULY 1, 2011] (a) **During the 2011
 33 legislative interim, the probate code study commission established
 34 by IC 2-5-16-2 shall study how the probate code should be
 35 amended to permit the sale of real estate located in Indiana to
 36 satisfy a claim by:**

- 37 (1) **the office of Medicaid policy and planning;**
 38 (2) **the United States;**
 39 (3) **the state; or**
 40 (4) **a subdivision of the state;**

41 **against a decedent regardless of whether letters testamentary or of
 42 administration are issued within five (5) months of the decedent's**

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1 **death.**
2 **(b) This SECTION expires December 31, 2011.**

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COMMITTEE REPORT

Madam President: The Senate Committee on Health and Provider Services, to which was referred Senate Bill No. 331, 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 14, delete lines 4 through 39.

Page 17, delete lines 23 through 42.

Page 18, delete lines 1 through 20.

Page 19, after line 21, begin a new paragraph and insert:

"SECTION 24. [EFFECTIVE JULY 1, 2011] **(a) During the 2011 legislative interim, the probate code study commission established by IC 2-5-16-2 shall study whether the probate code should be amended to permit the sale of real estate located in Indiana to satisfy a claim by:**

- (1) the office of Medicaid policy and planning;**
- (2) the United States;**
- (3) the state; or**
- (4) a subdivision of the state;**

against a decedent regardless of whether letters testamentary or of administration are issued within five (5) months of the decedent's death.

(b) This SECTION expires December 31, 2011."

Re-number all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 331 as introduced.)

MILLER, Chairperson

Committee Vote: Yeas 7, Nays 0.

SENATE MOTION

Madam President: I move that Senate Bill 331 be amended to read as follows:

Page 17, line 32, delete "whether" and insert "**how**".

(Reference is to SB 331 as printed February 18, 2011.)

MILLER

ES 331—LS 6501/DI 104+



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COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Health, to which was referred Senate Bill 331, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 8, line 35, after "practice" insert "**established with the concurrence of the prosecuting attorneys council of Indiana (IC 33-39-8-2) and**".

and when so amended that said bill do pass.

(Reference is to SB 331 as reprinted February 22, 2011.)

BROWN T, Chair

Committee Vote: yeas 8, nays 0.

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