
HOUSE BILL No. 1468

DIGEST OF INTRODUCED BILL

Citations Affected: IC 4-15-10-9; IC 22-2-16.

Synopsis: Leave for disaster service. Provides that a medical professional who is a full-time employee of the state, a political subdivision, or a private employer may not be disciplined for responding to a call for assistance following a disaster if the employee presents a written statement from a person in charge of the disaster response for which the employee provided assistance stating that the employee was engaged in disaster response activities at the time of the employee's absence from work. Provides that an employee who is injured while the employee is responding to a call for assistance following a disaster may not be disciplined as a result of the injury or an absence from work that does not exceed six months because of the injury, if the employee provides evidence from a physician or other medical authority showing: (1) treatment for the injury at the time of the absence; and (2) a connection between the injury and the employee's disaster response activities. Provides that an employee who is disciplined by a political subdivision employer for a permitted absence may bring a civil action against the employer within one year of the discipline to recover back wages, fringe benefits, seniority rights, and reinstatement to the employee's former position. Provides that a public servant who permits or authorizes an employee of a political subdivision under the public servant's supervision to be absent from employment for disaster response activities does not commit ghost employment.

Effective: July 1, 2013.

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January 22, 2013, read first time and referred to Committee on Employment, Labor and Pensions.



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First Regular Session 118th General Assembly (2013)

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 2012 Regular Session of the General Assembly.

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HOUSE BILL No. 1468



A BILL FOR AN ACT to amend the Indiana Code concerning labor and safety.

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

- 1 SECTION 1. IC 4-15-10-9 IS ADDED TO THE INDIANA CODE
- 2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
- 3 1, 2013]: **Sec. 9. (a) This section applies to an individual who is a**
- 4 **medical professional employed full time by an agency.**
- 5 **(b) As used in this section, "disaster" has the meaning set forth**
- 6 **in IC 10-14-3-1.**
- 7 **(c) As used in this section, "medical professional" means an**
- 8 **individual who is licensed and in good standing as any of the**
- 9 **following:**
- 10 **(1) Physician.**
- 11 **(2) Nurse.**
- 12 **(3) Mental health practitioner.**
- 13 **(4) Veterinary practitioner.**
- 14 **(5) Public health practitioner.**
- 15 **(d) If an employee complies with subsection (e), the employee**
- 16 **may not be disciplined:**
- 17 **(1) for an absence from employment in order to respond to a**



1 call for assistance following a disaster before the time the
2 employee was to report to employment; or

3 (2) for leaving the employee's duty station to respond to a call
4 for assistance following a disaster if the employee secures
5 authorization from the employee's supervisor to leave the
6 employee's duty station whenever the employee has already
7 reported for work.

8 (e) An employee who responds to a call for assistance following
9 a disaster must present a written statement to the employee's
10 immediate supervisor from a person in charge of the disaster
11 response for which the employee provided assistance stating that
12 the employee was engaged in disaster response activities at the time
13 of the employee's absence from work.

14 (f) An employee who is injured while the employee is responding
15 to a call for assistance following a disaster may not be disciplined
16 as a result of the injury or an absence from work because of the
17 injury if the employee complies with subsection (g). However, for
18 each instance in which the employee responds to a call for
19 assistance following a disaster that results in an injury to the
20 employee, this subsection applies only to the period of the
21 employee's absence from work that does not exceed six (6) months
22 from the date of the injury.

23 (g) The immediate supervisor of an employee described in
24 subsection (f) may require the employee to provide evidence from
25 a physician or other medical authority showing:

- 26 (1) treatment for the injury at the time of the absence; and
27 (2) a connection between the injury and the employee's
28 disaster response activities.

29 (h) To the extent required by federal or state law, information
30 obtained under subsection (g) by an immediate supervisor must be:

- 31 (1) retained in a separate medical file created for the
32 employee; and
33 (2) treated as a confidential medical record.

34 (i) The state personnel department shall administer an absence
35 from employment under subsection (f) in a manner consistent with
36 the federal Family and Medical Leave Act of 1993 (29 U.S.C. 2601
37 et seq.), as amended, and regulations or guidance issued under that
38 act.

39 SECTION 2. IC 22-2-16 IS ADDED TO THE INDIANA CODE AS
40 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
41 1, 2013]:

42 Chapter 16. Leave for Disaster Service by Medical Professionals

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1 **Sec. 1. This chapter does not apply to an employee of the state**
 2 **who is subject to IC 4-15-10-9.**

3 **Sec. 2. As used in this chapter, "disaster" has the meaning set**
 4 **forth in IC 10-14-3-1.**

5 **Sec. 3. As used in this chapter, "medical professional" means an**
 6 **individual who is licensed and in good standing as any of the**
 7 **following:**

- 8 **(1) Physician.**
 9 **(2) Nurse.**
 10 **(3) Mental health practitioner.**
 11 **(4) Veterinary practitioner.**
 12 **(5) Public health practitioner.**

13 **Sec. 4. As used in this chapter, "political subdivision" has the**
 14 **meaning set forth in IC 36-1-2-13.**

15 **Sec. 5. (a) This section applies to an individual who is a medical**
 16 **professional employed full time by a political subdivision.**

17 **(b) If an employee complies with subsection (c), the employee**
 18 **may not be disciplined:**

- 19 **(1) for an absence from employment in order to respond to a**
 20 **call for assistance following a disaster before the time the**
 21 **employee was to report to employment; or**
 22 **(2) for leaving the employee's duty station to respond to a call**
 23 **for assistance following a disaster if the employee secures**
 24 **authorization from the employee's supervisor to leave the**
 25 **employee's duty station whenever the employee has already**
 26 **reported for work.**

27 **(c) An employee who responds to a call for assistance following**
 28 **a disaster must present a written statement to the employee's**
 29 **political subdivision employer from a person in charge of the**
 30 **disaster response for which the employee provided assistance**
 31 **stating that the employee was engaged in disaster response**
 32 **activities at the time of the employee's absence from work.**

33 **(d) An employee who is injured while the employee is**
 34 **responding to a call for assistance following a disaster may not be**
 35 **disciplined as a result of the injury or an absence from work**
 36 **because of the injury if the employee complies with subsection (e).**
 37 **However, for each instance in which the employee responds to a**
 38 **call for assistance following a disaster that results in an injury to**
 39 **the employee, this subsection applies only to the period of the**
 40 **employee's absence from work that does not exceed six (6) months**
 41 **from the date of the injury.**

42 **(e) The political subdivision employer of an employee described**

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1 in subsection (d) may require the employee to provide evidence
2 from a physician or other medical authority showing:

- 3 (1) treatment for the injury at the time of the absence; and
4 (2) a connection between the injury and the employee's
5 disaster response activities.

6 (f) To the extent required by federal or state law, information
7 obtained under subsection (e) by a political subdivision employer
8 must be:

- 9 (1) retained in a separate medical file created for the
10 employee; and
11 (2) treated as a confidential medical record.

12 (g) An employee who is disciplined by a political subdivision
13 employer in violation of subsection (b) or (d) may bring a civil
14 action against the employer in the county of employment. In the
15 action, the employee may seek the following:

- 16 (1) Payment of back wages.
17 (2) Reinstatement of the employee's former position.
18 (3) Fringe benefits wrongly denied or withdrawn.
19 (4) Seniority rights wrongly denied or withdrawn.

20 An action brought under this subsection must be filed not later
21 than one (1) year after the date of the disciplinary action.

22 (h) A public servant (as defined in IC 35-31.5-2-261) who
23 permits or authorizes an employee of a political subdivision under
24 the supervision of the public servant to be absent from employment
25 as set forth in this section is not considered to have committed a
26 violation of IC 35-44.1-1-3(b).

27 **Sec. 6. (a)** This section applies to an individual who is a medical
28 professional employed full time by a private employer.

29 (b) If an employee complies with subsection (c), the employee
30 may not be disciplined:

- 31 (1) for an absence from employment in order to respond to a
32 call for assistance following a disaster before the time the
33 employee was to report to employment; or
34 (2) for leaving the employee's duty station to respond to a call
35 for assistance following a disaster if the employee secures
36 authorization from the employee's supervisor to leave the
37 employee's duty station whenever the employee has already
38 reported for work.

39 (c) An employee who responds to a call for assistance following
40 a disaster must present a written statement to the employee's
41 employer from a person in charge of the disaster response for
42 which the employee provided assistance stating that the employee

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1 was engaged in disaster response activities at the time of the
2 employee's absence from work.

3 (d) An employee who is injured while the employee is
4 responding to a call for assistance following a disaster may not be
5 disciplined as a result of the injury or an absence from work
6 because of the injury if the employee complies with subsection (e).
7 However, for each instance in which the employee responds to a
8 call for assistance following a disaster that results in an injury to
9 the employee, this subsection applies only to the period of the
10 employee's absence from work that does not exceed six (6) months
11 from the date of the injury.

12 (e) The employer of an employee described in subsection (d)
13 may require the employee to provide evidence from a physician or
14 other medical authority showing:

- 15 (1) treatment for the injury at the time of the absence; and
16 (2) a connection between the injury and the employee's
17 disaster response activities.

18 (f) To the extent required by federal or state law, information
19 obtained under subsection (e) by an employer must be:

- 20 (1) retained in a separate medical file created for the
21 employee; and
22 (2) treated as a confidential medical record.

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