



Journal of the House

State of Indiana

116th General Assembly

First Regular Session

Thirty-eighth Meeting Day

Monday Afternoon

March 30, 2009

The invocation was offered by Reverend Larry A. Langer, First Presbyterian Church, Jasper.

The Pledge of Allegiance to the Flag was led by Representative Mark B. Messmer.

The House convened at 1:30 p.m. with Speaker B. Patrick Bauer in the Chair.

The Speaker ordered the roll of the House to be called:

Austin	Kersey
Avery	Klinker
Bardon ☐	Knollman
Barnes	Koch
Bartlett	L. Lawson
Battles	Lehe
Behning	Lehman
Bell	Leonard
Bischoff	Lutz ☐
Blanton	McClain
Borders	Messmer
Borror	Michael
Bosma	Moseley
C. Brown	Moses
T. Brown	Murphy
Burton	Neese
Candelaria Reardon	Niezgodski
Cheatham	Noe
Cherry	Oxley
Clements	Pearson
Clere	Pelath
Crawford	Pflum
Crouch	Pierce
Culver	Pond
Davis	Porter
Day	Pryor
DeLaney	Reske
Dembowski	Richardson
Dermody	Riecken
Dobis	Robertson
Dodge	Ruppel
Duncan	Saunders
Dvorak	M. Smith
Eberhart	V. Smith
Espich	Soliday
Foley	Stemler
Friend	Steuerwald
Frizzell	Stevenson
Fry	Stilwell
GiaQuinta	Sullivan
Goodin	Summers
Grubb	Thompson
Gutwein	Tincher
Harris	Torr
Herrell	Truitt
Hinkle	Turner

Tyler ☐
VanDenburgh
VanHaaften
Walorski

Welch
Wolkins
Yarde
Mr. Speaker

Roll Call 373: 97 present; 3 excused. The Speaker announced a quorum in attendance. [NOTE: ☐ indicates those who were excused.]

HOUSE MOTION

Mr. Speaker: I move that when we do adjourn, we adjourn until Tuesday, March 31, 2009, at 1:00 p.m.

BATTLES

The motion was adopted by a constitutional majority.

MESSAGE FROM THE SENATE

Mr. Speaker: I am directed by the Senate to inform the House that the President Pro Tempore of the Senate has appointed the following Senators a conference committee to confer on Engrossed House Bill 1379:

Conferees: Kruse and Tallian

Advisors: Hershman, Kenley, and Broden

JENNIFER L. MERTZ
Principal Secretary of the Senate

MESSAGE FROM THE SENATE

Mr. Speaker: I am directed by the Senate to inform the House that the Senate has passed House Concurrent Resolutions 67 and 68 and the same are herewith returned to the House.

JENNIFER L. MERTZ
Principal Secretary of the Senate

MESSAGE FROM THE SENATE

Mr. Speaker: I am directed by the Senate to inform the House that the Senate has passed Senate Concurrent Resolution 33 and the same is herewith transmitted to the House for further action.

JENNIFER L. MERTZ
Principal Secretary of the Senate

MESSAGE FROM THE SENATE

Mr. Speaker: I am directed by the Senate to inform the House that the Senate has passed Senate Concurrent Resolutions 41, 68, 69, 70, and 75 and the same are herewith transmitted to the House for further action.

JENNIFER L. MERTZ
Principal Secretary of the Senate

MESSAGE FROM THE SENATE

Mr. Speaker: I am directed by the Senate to inform the House that the Senate has passed Senate Concurrent Resolution 67 and the same is herewith transmitted to the House for further action.

JENNIFER L. MERTZ
Principal Secretary of the Senate

MESSAGE FROM THE SENATE

Mr. Speaker: I am directed by the Senate to inform the House that the Senate has passed Senate Concurrent Resolution 77 and the same is herewith transmitted to the House for further action.

JENNIFER L. MERTZ
Principal Secretary of the Senate

RESOLUTIONS ON FIRST READING

House Concurrent Resolution 69

Representatives Pond and Reske introduced House Concurrent Resolution 69:

A CONCURRENT RESOLUTION supporting Indiana members of the armed forces and awareness of stress disorders in members of the armed forces and their families.

Whereas, The defense of freedom and the democratic form of government enjoyed by Indiana citizens is primary to its citizens;

Whereas, Indiana members of the armed forces have been, are, and will continue to be deployed overseas, often to hostile environments;

Whereas, The stress of combat may cause Post Traumatic Stress Disorder (PTSD) in as many as one in eight deployed members of the armed forces;

Whereas, Stresses of military deployments and PTSD may also affect family members;

Whereas, Treatment of members of the armed forces and their families is primarily accomplished by nonmilitary physicians throughout the state of Indiana;

Whereas, Presenting medical complaints may be a manifestation of, or exacerbated by, stress disorders; and

Whereas, Early compassionate treatment of patients and their families is more likely to lead to successful resolution of stress disorders, thereby decreasing the likelihood of chronic symptoms or even permanent disability: Therefore,

Be it resolved by the House of Representatives of the General Assembly of the State of Indiana, the Senate concurring:

SECTION 1. That the Indiana General Assembly supports compassionate treatment and efforts to raise awareness of PTSD and other associated psychiatric disorders related to the unique stresses of members of the armed forces and their families.

SECTION 2. That the Indiana General Assembly encourages physicians throughout Indiana to query patients and their families regarding stresses related to military deployment.

SECTION 3. That the Indiana General Assembly encourages the Indiana State Medical Association to promote awareness and disseminate information regarding resources that are available for the assistance of members of the armed forces and their families.

SECTION 4. That the Principal Clerk of the House of Representatives shall transmit a copy of this resolution to the Indiana State Medical Association.

The resolution was read a first time and adopted by voice vote. The Clerk was directed to inform the Senate of the passage of the resolution. Senate sponsors: Senators Wyss and Rogers.

House Resolution 51

Representatives Avery, Riecken, Crouch, and VanHaften introduced House Resolution 51:

A HOUSE RESOLUTION recognizing the Keep Evansville Beautiful program.

Whereas, Keep Evansville Beautiful (KEB) is a program designed to encourage citizens to create "a beautiful, inviting,

healthy outdoor environment to assure an improved quality of life and enhanced economic growth for the greater Evansville area";

Whereas, Keep Evansville Beautiful was founded in 1972 as a special committee of the Metropolitan Evansville Chamber of Commerce and is a privately funded agency;

Whereas, Members are the heart of the Keep Evansville Beautiful programs, and nearly half of the program support comes from membership;

Whereas, In 2004, KEB began to use Evie as a mascot to promote its anti-litter programs;

Whereas, Evie, an acronym for Every Volunteer Is Essential, is a yellow Labrador Retriever owned by Steven and Susan Harp and is trained to pick up litter and throw it away;

Whereas, The Retrieving With Evie Litter Program recently won the prestigious first place award in the nation for litter prevention programs at the 2008 Keep America Beautiful National Conference in Washington, D.C.;

Whereas, Steven and Susan Harp and Evie have taught more than 2,700 elementary school students about litter at public, private, and parochial schools by telling Evie's story and letting Evie show off her tricks; and

Whereas, The Keep Evansville Beautiful program brings government, schools, churches, and neighborhoods together to help keep their beloved city beautiful: Therefore,

Be it resolved by the House of Representatives of the General Assembly of the State of Indiana:

SECTION 1. That the Indiana House of Representatives recognizes the efforts of Keep Evansville Beautiful and its devoted staff to help maintain the city and to keep litter from its streets and neighborhoods.

SECTION 2. That the Principal Clerk of the House of Representatives shall transmit a copy of this resolution to board members David Herrenbruck, Chair; Carter Clarke, Chair Elect; Todd Chamberlain, Vice Chair Programming; Paul Waters, Vice Chair Development; Stephanie Aldridge, Treasurer; Chris Boeke, Secretary; and Steven and Susan Harp.

The resolution was read a first time and adopted by voice vote.

House Resolution 52

Representative Bischoff introduced House Resolution 52:

A HOUSE RESOLUTION honoring Elise Studer-Smith.

Whereas, Elise Studer-Smith was named the Midwest District Elementary School Physical Education Teacher of the Year by the National Association for Sport and Physical Education (NASPE);

Whereas, The Midwest District Elementary School Physical Education Teacher of the Year award is given "in recognition of outstanding teaching performance at the elementary school level and the ability to motivate today's youth to participate in a lifetime of physical activity";

Whereas, Elise, an elementary/middle school physical education teacher at Sunman-Dearborn Intermediate School in West Harrison, has been teaching since 1977;

Whereas, In addition to teaching physical education, Elise coaches volleyball, track, and the Special Olympics;

Whereas, Elise's curriculum emphasizes fitness and fundamental skill development and integrates homework to reinforce class discussion;

Whereas, In addition to her work with the students, Elise

organized "Walking to New Orleans", a fundraiser to help raise awareness of and money for those affected by Hurricane Katrina, and over 24 Jump Rope for Heart events;

Whereas, Elise is actively involved with the Indiana Association for Health, Physical Education, Recreation, and Dance, serving as adapted program director, awards committee member, regional coordinator, and Jump Rope for Heart program director;

Whereas, Elise is recognized by Superintendent John Roeder as "an exemplary teacher and the most dedicated person I know to the goal of improving fitness and health for all Indiana school children"; and

Whereas, The Indiana House of Representatives wishes to express its gratitude for all the effort put forth by Elise Studer-Smith in helping the children of Indiana to improve their physical fitness and health: Therefore,

Be it resolved by the House of Representatives of the General Assembly of the State of Indiana:

SECTION 1. That the Indiana House of Representatives congratulates Elise Studer-Smith for being named Midwest District Elementary School Physical Education Teacher of the Year and commends her for her efforts to encourage students to improve their physical fitness and health.

SECTION 2. That the Principal Clerk of the House of Representatives shall transmit a copy of this resolution to Elise Studer-Smith and her family, Principal Christina Vennemeier, and Superintendent John Roeder.

The resolution was read a first time and adopted by voice vote.

Senate Concurrent Resolution 33

The Speaker handed down Senate Concurrent Resolution 33, sponsored by Representatives GiaQuinta and Hinkle:

A CONCURRENT RESOLUTION urging the Legislative Council to establish an interim study committee to study issues pertaining to the sales tax treatment of car purchase discounts.

Whereas, An interim study committee is needed to review whether a rebate or employee discount on the sale of a motor vehicle should be part of the gross retail income received by the seller when determining the sales and use tax amount: Therefore,

Be it resolved by the Senate of the General Assembly of the State of Indiana, the House of Representatives concurring:

SECTION 1. That the Legislative Council is urged to establish a study committee to assess the affect of the sales tax treatment of car purchase discounts, and review issues pertaining to the its impact on Indiana car buyers.

SECTION 2. That the interim study commission, if established, shall operate under the direction of the Legislative Council and shall issue a final report when directed to do so by the council.

SECTION 3. The Secretary of the Senate is hereby directed to a transmit a copy of this resolution to the Legislative Council through the Executive Director of the Legislative Services Agency.

The resolution was read a first time and referred to the Committee on Rules and Legislative Procedures.

Senate Concurrent Resolution 41

The Speaker handed down Senate Concurrent Resolution 41, sponsored by Representatives Borrer and GiaQuinta:

A CONCURRENT RESOLUTION honoring Alexandra

Klaehn.

Whereas, Alexandra Klaehn, an esteemed resident of Fort Wayne and a student at Concordia Lutheran High School, has achieved national recognition for exemplary volunteer service by receiving a 2009 Prudential Spirit of Community Award;

Whereas, This prestigious award, presented by Prudential Financial in partnership with the National Association of Secondary School Principals, honors young volunteers across America who have demonstrated an extraordinary commitment to serving their community;

Whereas, Alexandra Klaehn earned this award by giving generously of her time and energy to improve a zoo in Tajikistan in central Asia: Therefore,

Be it resolved by the Senate of the General Assembly of the State of Indiana, the House of Representatives concurring:

SECTION 1. That the Indiana General Assembly congratulates and honors Alexandra Klaehn as a recipient of a Prudential Spirit of Community Award and recognizes her outstanding record of volunteer service, peer leadership, and community spirit, and extends best wishes for her continued success and happiness.

SECTION 2. That copies of this resolution be transmitted by the Secretary of the Senate to Alexandra Klaehn and her family.

The resolution was read a first time and adopted by voice vote. The Clerk was directed to inform the Senate of the passage of the resolution.

Senate Concurrent Resolution 67

The Speaker handed down Senate Concurrent Resolution 67, sponsored by Representatives Austin, Lutz, and Reszke:

A CONCURRENT RESOLUTION to memorialize Judge David W. Hopper.

Whereas, David W. Hopper passed away on February 25, 2009;

Whereas, Judge Hopper served as the Judge of Madison County Court 1, recently renamed Madison County Superior Court 4, for a total of 22 years;

Whereas, Judge Hopper also served as the judge in the Madison County Drug Court for eight years, as well as the Hamilton County Circuit Court master commissioner for six years;

Whereas, Judge Hopper once estimated that he saw more than 70,000 cases resolved during his tenure and was a highly respected jurist and member of the Madison County legal community;

Whereas, Judge Hopper also served on various community boards, including the South Madison County Foundation, the Purdue Extension, the 4-H Association, Contact-HELP, Anderson Weekday Religious Education, Christian Student Foundation, Youth Need Prime Time and Community Corrections;

Whereas, Judge Hopper always acted in the manner of a scholar and a gentleman, even when faced with a difficult decision;

Whereas, Judge Hopper will be remembered as a quiet-mannered and humble man with a true servant's heart: Therefore,

Be it resolved by the Senate of the General Assembly of the State of Indiana, the House of Representatives concurring:

SECTION 1. That the Indiana Senate memorialize Judge David W. Hopper.

SECTION 2. That the Secretary of the Senate Transmit a copy of this resolution to Judge Hopper's family.

The resolution was read a first time and adopted by voice vote. The Clerk was directed to inform the Senate of the passage of the resolution.

Senate Concurrent Resolution 68

The Speaker handed down Senate Concurrent Resolution 68, sponsored by Representative Bartlett:

A CONCURRENT RESOLUTION to honor the Cathedral High School boys' volleyball club as the 2008 IBVCA State Champions.

Whereas, The Cathedral High School boys' volleyball team won the title of 2008 IBVCA State Champions in May 2008;

Whereas, The 2008 Cathedral High School boys' volleyball team joins a winning tradition by securing the school's seventh club championship;

Whereas, The members of the 2008 Cathedral High School boys' volleyball team applies skills learned on the court, such as teamwork, time management, cooperation, and service, to be stellar students off the court: Therefore,

*Be it resolved by the Senate
of the General Assembly of the State of Indiana,
the House of Representatives concurring:*

SECTION 1. The Indiana General Assembly wishes to congratulate the Cathedral High School boys' volleyball team on winning the 2008 IBVCA state championship title.

SECTION 2. That the Secretary of the Senate transmit a copy of this resolution to Mr. Stephen J. Helmich, President, David L. Worland, Principal, Ms. Rhonda Low, Coach, and each member of the 2008 Cathedral High School boys' volleyball team.

The resolution was read a first time and adopted by voice vote. The Clerk was directed to inform the Senate of the passage of the resolution.

Senate Concurrent Resolution 69

The Speaker handed down Senate Concurrent Resolution 69, sponsored by Representative Bartlett:

A CONCURRENT RESOLUTION to honor the Cathedral High School boys' football team as the IHSAA 4A State Champions.

Whereas, The Cathedral High School boys' football team beat Fort Wayne Dwenger 10-7 in the championship game to become the 2008 IHSAA 4A State Champions;

Whereas, The 2008 Cathedral High School boys' football team joins a winning tradition by securing the school's sixth football championship;

Whereas, The members of the 2008 Cathedral High School boys' football team applies skills learned on the field, such as teamwork, time management, cooperation, and service, to be stellar students off the field: Therefore,

*Be it resolved by the Senate
of the General Assembly of the State of Indiana,
the House of Representatives concurring:*

SECTION 1. The Indiana General Assembly wishes to congratulate the Cathedral High School boys' football team on winning the 2008 IHSAA 4A State Championship title.

SECTION 2. That the Secretary of the Senate transmit a copy of this resolution to Mr. Stephen J. Helmich, President, Mr. David L. Worland, Principal, Mr. Rick Streiff, Coach, each

member of the 2008 Cathedral High School boys' football team.

The resolution was read a first time and adopted by voice vote. The Clerk was directed to inform the Senate of the passage of the resolution.

Senate Concurrent Resolution 70

The Speaker handed down Senate Concurrent Resolution 70, sponsored by Representative Bartlett:

A CONCURRENT RESOLUTION to honor the Cathedral High School girls' volleyball team as the 2008 IHSAA 4A State Champions.

Whereas, The Cathedral High School girls' volleyball team won their final match on November 8, 2008 to clinch the 2008 4A IHSAA State Championship title;

Whereas, The Cathedral High School girls' volleyball team joins a winning tradition by securing the school's sixth state championship title;

Whereas, The Cathedral High School girls' volleyball team has received national honors by being named the National Private School Athletic Association Division I Team of the Year as well as the National Catholic High School Female Team of the Year by Sports Faith International;

Whereas, The Cathedral High School girls' volleyball team applies skills learned on the court, such as teamwork, time management, cooperation, and service, to be stellar students off the field: Therefore,

*Be it resolved by the Senate
of the General Assembly of the State of Indiana,
the House of Representatives concurring:*

SECTION 1. The Indiana Senate wishes to congratulate the Cathedral High School girls' volleyball team on winning the 2008 IHSAA 4A State Championship title.

SECTION 2. That the Secretary of the Senate transmit a copy of this resolution to Mr. Stephen J. Helmich, President, Mr. David L. Worland, Principal, Ms. Jean Kesterson, Coach, and each member of the 2008 Cathedral High School girls' volleyball team.

The resolution was read a first time and adopted by voice vote. The Clerk was directed to inform the Senate of the passage of the resolution.

Senate Concurrent Resolution 75

The Speaker handed down Senate Concurrent Resolution 75, sponsored by Representatives Borrer and GiaQuinta:

A CONCURRENT RESOLUTION recognizing James LaMarca for being the only teacher in Indiana to receive the prestigious Siemens Award for Advanced Placement in 2009.

Whereas, James LaMarca is one of fifty teachers across the country to receive the prestigious Siemens Award for Advanced Placement in 2009;

Whereas, Teachers with a minimum of five years teaching experience in math, science, or technology advanced placement (AP) courses are recognized for their exemplary teaching and enthusiastic dedication to students and the AP Program;

Whereas, Mr. LaMarca teaches math at Bishop Dwenger High School in Ft. Wayne, where he has been employed since 1998. He was invited by the College Board and Siemens Foundation to apply for the award based on excellence and success of his AP students;

Whereas, Mr. LaMarca's students have an eighty-five percent pass rate on the AP exam, and sixty-three percent of those who pass achieve scores of four to five on a five point scale;

Whereas, In addition to facilitating an outstanding passage rate, Mr. LaMarca continues to push his students towards higher education. The number of students taking the AP math exam at Bishop Dwenger has doubled in the last couple years;

Whereas, Born in Portsmouth, New Hampshire, James came to Indiana for his undergraduate work. He received his bachelor's degree in Aeronautical Engineering from Purdue University in 1971. His graduate work was completed in 1981 from Pepperdine University in California. He graduated with a Master of Arts in Management;

Whereas, Before entering the teaching profession, James served in the United States Air Force flying F4 Phantoms. He retired as a Lieutenant Colonel in 1993; and

Whereas, Education of Hoosier children is one of our top responsibilities. After dedicating himself to serving and protecting our country, James LaMarca turned his attention towards protecting and preparing young people so that they will grow to be productive citizens and in turn dedicate their time to preserving the future of our nation: Therefore,

*Be it resolved by the Senate
of the General Assembly of the State of Indiana,
the House of Representatives concurring:*

SECTION 1. That the Indiana General Assembly hereby congratulates James LaMarca for being distinguished by the College Board and Siemens Foundation as an excellent Advanced Placement teacher in the area of Math.

SECTION 2. That the Secretary of the Senate is hereby directed to transmit a copy of this resolution to James LaMarca and his wife Mary, Bishop Dwenger High School Principal Fred Tone, and Bishop John Michael D'Arcy from the Diocese of Ft. Wayne-South Bend.

The resolution was read a first time and adopted by voice vote. The Clerk was directed to inform the Senate of the passage of the resolution.

Senate Concurrent Resolution 77

The Speaker handed down Senate Concurrent Resolution 77, sponsored by Representatives Herrell, Clements, and Turner:

A CONCURRENT RESOLUTION memorializing Charles B. Cropper.

Whereas, Charles B. Cropper left this life on Tuesday, February 24, 2009, at the age of 62;

Whereas, Born to Charles D. Cropper and M. Evelyn Cropper Storer on June 19, 1946, in Maysville, Kentucky, Charles B. Cropper lived his life with charity and love for all. He had no enemies;

Whereas, Charles B. Cropper was a veteran of the Vietnam era, serving in the Air Force from 1964 to 1968 during which time he was a broadcaster on the Armed Forces Radio Network;

Whereas, In 1969, Charles joined radio station WWKI and began hosting a popular public affairs program entitled "Male Call" with co-host Dick Bronson. "Male Call" recently celebrated its 10,000th broadcast;

Whereas, On June 9, 1985, Charles married Terri Titus and together they had four children, Michele, Gregory, Ryan, and Holly;

Whereas, In 1973, Charles was instrumental in founding a charity entitled "We Care" serving the community of Kokomo and surrounding areas by supporting the local charities of the Salvation Army, the Kokomo Rescue Mission, and the Kokomo Tribune sponsored Goodfellows;

Whereas, Charles B. Cropper served as president of We Care since 2006;

Whereas, Often recognized for his good works, Charles B. Cropper was named a Distinguished Hoosier by Governor Robert Orr, a Kentucky Colonel by Governor Paul Patton, and was given a day named in his honor by Kokomo mayor Steven Daily;

Whereas, Charles B. Cropper was a member of St. Patrick's Catholic Church, the Fraternal Order of the Eagles, and a former member of the Howard County Jaycees; and

Whereas, Charles B. Cropper won and held the love, respect, and admiration of all who knew him, he served his profession and his community faithfully and well, and he will be missed: Therefore,

*Be it resolved by the Senate
of the General Assembly of the State of Indiana,
the House of Representatives concurring:*

SECTION 1. That we mourn the passing of this outstanding man and extend our heartfelt sympathy to his wife Terri, his daughters Michele and Holly, his sons Gregory and Ryan, his brother Anthony, and his six grandchildren.

SECTION 2. That copies of this resolution be transmitted by the Secretary of the Senate to the family of Charles B. Cropper.

The resolution was read a first time and adopted by voice vote. The Clerk was directed to inform the Senate of the passage of the resolution.

ENGROSSED SENATE BILLS ON THIRD READING

Engrossed Senate Bill 25

Representative Kersey called down Engrossed Senate Bill 25 for third reading:

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

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 374: yeas 95, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill.

Engrossed Senate Bill 469

Representative Grubb called down Engrossed Senate Bill 469 for third reading:

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

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 375: yeas 51, nays 45. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill.

Engrossed Senate Bill 228

Representative Porter called down Engrossed Senate Bill 228 for third reading:

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

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 376: yeas 90, nays 6. The bill was declared passed. The question was, Shall the title of the bill remain the title of the

act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill.

Engrossed Senate Bill 478

Representative Niezgodski called down Engrossed Senate Bill 478 for third reading:

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

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 377: yeas 93, nays 1. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill.

Engrossed Senate Bill 533

Representative Kersey called down Engrossed Senate Bill 533 for third reading:

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

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 378: yeas 64, nays 32. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill.

REPORTS FROM COMMITTEES

COMMITTEE REPORT

Mr. Speaker: Your Committee on Elections and Apportionment, to which was referred Engrossed Senate Bill 14, 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 1, delete lines 1 through 17, begin a new paragraph and insert:

"SECTION 1. IC 3-11-8-11, AS AMENDED BY P.L.221-2005, SECTION 66, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 11. (a) When the ~~hour~~ time for closing the polls occurs, the precinct election board shall permit all ~~voters who:~~ **the following to vote:**

- (1) **Voters who** have passed the challengers and who are waiting to announce their names to the poll clerks for the purpose of signing the poll list.
- (2) **Voters who** have signed the poll list but who have not voted. ~~or~~
- (3) **Voters who** are in the act of voting.

~~to vote. In addition;~~

- (4) **Voters described in subsection (b).**

(b) **At the close of the polls**, the inspector shall require all voters who have not yet passed the challengers to line up in single file. ~~within the chute. The poll clerks inspector shall record the names of the voters in the chute and these do the following:~~

- (1) **Determine who the last voter is in the line. The inspector may not determine that a voter is not in line only because the voter is located outside the building in which voting is occurring.**
- (2) **Beginning with the last voter in line, give each voter in the line an object determined by the county election board to signify that the voter was in line at the close of the polls.**

These voters may vote unless otherwise prevented according to law.

~~(b)~~ (c) This subsection applies if a court order (or other order) has been issued to extend the hours that the polls are open under

section 8 of this chapter. As provided in 42 U.S.C. 15482, the inspector shall identify the voters who would not otherwise be eligible to vote after the closing of the polls under subsection (a) and shall provide a provisional ballot to the voters in accordance with IC 3-11-7.

SECTION 2. IC 3-11-9-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. This chapter applies to:

- (1) each precinct; and ~~to~~
- (2) absentee voting, **including the casting of an absentee ballot before an absentee voter board:**

- (A) **in the office of the:**
 - (i) **circuit court clerk; or**
 - (ii) **board of elections and registration in a county subject to IC 3-6-5.2 or IC 3-6-5.4; or**
- (B) **at a satellite office established under IC 3-11-10-26.3.**

SECTION 3. IC 3-11-10-12, AS AMENDED BY P.L.164-2006, SECTION 106, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 12. (a) **Except as provided in section 12.5 of this chapter**, each county election board shall have all absentee ballots delivered to the precinct election boards at their respective polls on election day.

(b) The absentee ballots shall be delivered during the hours that the polls are open and in sufficient time to enable the precinct election boards to vote the ballots during the time the polls are open.

(c) Along with the absentee ballots delivered to the precinct election boards under subsection (a), each county election board shall provide a list certified by the circuit court clerk. This list must state the name of each voter subject to IC 3-7-33-4.5 who:

- (1) filed the documentation required by IC 3-7-33-4.5 with the county voter registration office after the printing of the certified list under IC 3-7-29 or the poll list under IC 3-11-3; and
- (2) as a result, is entitled to have the voter's absentee ballot counted if the ballot otherwise complies with this title.

(d) If the county election board is notified not later than 3 p.m. on election day by the county voter registration office that a voter subject to IC 3-7-33-4.5 and not identified in the list certified under subsection (c) has filed documentation with the office that complies with IC 3-7-33-4.5, the county election board shall transmit a supplemental certified list to the appropriate precinct election board. If the board determines that the supplemental list may not be received before the closing of the polls, the board shall:

- (1) attempt to contact the precinct election board to inform the board regarding the content of the supplemental list; and
- (2) file a copy of the supplemental list for that precinct as part of the permanent records of the board.

(e) This subsection applies to a special write-in absentee ballot described in:

- (1) 42 U.S.C. 1973ff for federal offices; and
- (2) IC 3-11-4-12(a) for state offices.

If the county election board receives both a special write-in absentee ballot and the regular absentee ballot described by IC 3-11-4-12 from the same voter, the county election board shall reject the special write-in ballot and deliver only the regular absentee ballot to the precinct election board.

SECTION 4. IC 3-11-10-12.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 12.5. (a) **This section applies to absentee ballots cast:**

- (1) **under section 26 or 26.3 of this chapter; and**
- (2) **on a direct record electronic voting system.**

(b) **Notwithstanding section 12 of this chapter, a county election board is not required to deliver absentee ballots described in subsection (a) to the precincts for counting.**

(c) A county election board acting under this section:

- (1) may count all absentee ballots described in subsection (a) at a central location; and**
- (2) shall adjust the vote totals for each precinct based on the count of absentee ballots under subdivision (1).**

(d) This section does not require a county election board to count absentee ballots not described in subsection (a) at a central location under this section or IC 3-11.5.

SECTION 5. IC 3-11-10-26, AS AMENDED BY P.L.164-2006, SECTION 109, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 26. (a) As an alternative to voting by mail, a voter is entitled to cast an absentee ballot before an absentee voter board:

- (1) in the office of the circuit court clerk (or board of elections and registration in a county subject to IC 3-6-5.2); or
- (2) at a satellite office established under section 26.3 of this chapter.

(b) The voter must:

- (1) sign an application on the form prescribed by the commission under IC 3-11-4-5.1; and
- (2) provide proof of identification;

before being permitted to vote. **Except as provided in subsection (k),** the application must be received by the circuit court clerk not later than the time prescribed by IC 3-11-4-3.

(c) Subject to subsection (k), the voter may vote before the board not more than twenty-nine (29) days nor later than noon on the day before election day.

(d) Subject to subsection (k), an absent uniformed services voter who is eligible to vote by absentee ballot in the circuit court clerk's office under IC 3-7-36-14 may vote before the board not earlier than twenty-nine (29) days before the election and not later than noon on election day. If a voter described by this subsection wishes to cast an absentee ballot during the period beginning at noon on the day before election day and ending at noon on election day, the county election board or absentee voter board may receive and process the ballot at a location designated by resolution of the county election board.

(e) The absentee voter board in the office of the circuit court clerk must permit voters to cast absentee ballots under this section for at least seven (7) hours on each of the two (2) Saturdays preceding election day. The office of the circuit court clerk may not close on a day designated for casting absentee ballots in the clerk's office before the time on that day designated for casting absentee ballots in the clerk's office to end.

(f) Notwithstanding subsection (e), in a county with a population of less than twenty thousand (20,000), the absentee voter board in the office of the circuit court clerk, with the approval of the county election board, may reduce the number of hours available to cast absentee ballots under this section to a minimum of four (4) hours on each of the two (2) Saturdays preceding election day.

(g) As provided by 42 U.S.C. 15481, a voter casting an absentee ballot under this section must be:

- (1) permitted to verify in a private and independent manner the votes selected by the voter before the ballot is cast and counted;
- (2) provided with the opportunity to change the ballot or correct any error in a private and independent manner before the ballot is cast and counted, including the opportunity to receive a replacement ballot if the voter is otherwise unable to change or correct the ballot; and
- (3) notified before the ballot is cast regarding the effect of casting multiple votes for the office and provided an opportunity to correct the ballot before the ballot is cast and counted.

(h) As provided by 42 U.S.C. 15481, when an absentee ballot is provided under this section, the board must also provide the

voter with:

- (1) information concerning the effect of casting multiple votes for an office; and
- (2) instructions on how to correct the ballot before the ballot is cast and counted, including the issuance of replacement ballots.

(i) If:

- (1) the voter is unable or declines to present the proof of identification; or
- (2) a member of the board determines that the proof of identification provided by the voter does not qualify as proof of identification under IC 3-5-2-40.5;

the voter shall be permitted to cast an absentee ballot and the voter's absentee ballot shall be treated as a provisional ballot.

(j) A voter casting an absentee ballot under this section is entitled to receive assistance in casting the voter's ballot in accordance with IC 3-11-9.

(k) Notwithstanding subsection (c) or (d), when the time arrives that has been designated as the time at which voting under this section ends, the absentee voter board shall do the following:

(1) Permit all voters who:

(A) are in the act of voting; or

(B) have begun the procedure for casting an absentee ballot under this section but who have not voted;

to vote.

(2) Require all voters who are waiting to vote but have not begun the procedure for casting an absentee ballot under this section to line up in single file. One (1) member of the board shall do the following:

(A) Determine who the last voter is in the line. The board member may not determine that a voter is not in line only because the voter is located outside the building in which voting is occurring.

(B) Beginning with the last voter in line, give each voter in the line an object determined by the county election board to signify that the voter was in line at the close of the polls.

These voters may vote under this section unless otherwise prevented according to law.

(l) All locations where a voter is entitled to vote under this section must comply with the polling place accessibility requirements of IC 3-11-8. However, if the office of the circuit court clerk is unable to comply with this subsection even by implementing temporary measures under IC 3-11-8-1.2(c), the office of the circuit court clerk is not required to comply with this subsection before January 1, 2019."

Delete page 2.

Page 3, delete lines 1 through 6.

Page 3, line 17, after "offices." insert "A satellite office may not close on a day designated for casting absentee ballots at the satellite office before the time on that day designated for casting absentee ballots at the satellite office to end."

Page 3, between lines 23 and 24, begin a new paragraph and insert:

"(f) A voter at a satellite office is entitled to receive assistance in casting the voter's ballot in accordance with IC 3-11-9.

(g) Notwithstanding a resolution adopted under this section, when the time arrives that has been designated as the time at which voting under this section ends, the absentee voter board shall do the following:

(1) Permit all voters who:

(A) are in the act of voting; or

(B) have begun the procedure for casting an absentee ballot under this section but who have not voted;

to vote.

(2) Require all voters who are waiting to vote but have not begun the procedure for casting an absentee ballot

under this section to line up in single file. One (1) member of the board shall do the following:

(A) Determine who the last voter is in the line. The board member may not determine that a voter is not in line only because the voter is located outside the building in which voting is occurring.

(B) Beginning with the last voter in line, give each voter in the line an object determined by the county election board to signify that the voter was in line at the close of the polls.

These voters may vote under this section unless otherwise prevented according to law."

Page 3, line 24, delete "(f)" and insert "(h)".

Re-number all SECTIONS consecutively.

(Reference is to SB 14 as printed January 28, 2009.)

and when so amended that said bill do pass.

Committee Vote: yeas 12, nays 0.

BATTLES, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred Engrossed Senate Bill 102, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

Committee Vote: yeas 20, nays 0.

CRAWFORD, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Health, to which was referred Engrossed Senate Bill 219, 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 2, delete lines 38 through 42.

Page 3, delete lines 1 through 2, begin a new line block indented and insert:

"(8) A college or university (as defined in IC 21-7-13-10) that is attended by the individual."

Page 3, delete lines 10 through 28, begin a new paragraph and insert:

"(f) The state department shall convene a panel to discuss expanding access to the immunization data registry. The panel must include at least one (1) representative of an insurance organization and at least one (1) member of a health maintenance organization. The state department shall submit the recommendations of the panel to the legislative council by October 1, 2009, in an electronic format under IC 5-14-6."

(Reference is to SB 219 as printed January 23, 2009.) and when so amended that said bill do pass.

Committee Vote: yeas 10, nays 2.

C. BROWN, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Health, to which was referred Engrossed Senate Bill 472, 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 2, line 18, strike "household" and insert **"adjusted gross"**.

Page 2, between lines 30 and 31, begin a new paragraph and insert:

"(g) The plan must allow an individual access to noncontracted licensed Medicaid providers."

Page 3, line 19, strike "six (6)" and insert **"three (3)"**.

Page 3, between lines 37 and 38, begin a new paragraph and insert:

"(e) An employer may not terminate providing health insurance coverage for employees for the purpose of having employees receive health care coverage under, and participate in, the plan."

Page 4, line 4, after "A nonprofit organization" insert ",".

Page 4, line 6, delete "fifty percent (50%)" and insert **"seventy-five percent (75%)"**.

Page 4, line 18, after "plan." insert **"An individual may pay for over-the-counter medicines and personal hygiene items from the individual's health care account."**

(Reference is to SB 472 as printed February 13, 2009.)

and when so amended that said bill do pass.

Committee Vote: yeas 5, nays 4.

C. BROWN, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Commerce, Energy, Technology and Utilities, to which was referred Engrossed Senate Bill 487, 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 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 8-1-2.6-4, AS AMENDED BY P.L.27-2006, SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 4. (a) A regulatory flexibility committee is established to monitor competition in the telecommunications industry.

(b) The committee is composed of the members of a house standing committee selected by the speaker of the house of representatives and a senate standing committee selected by the president pro tempore of the senate. In selecting standing committees under this subsection, the speaker and president pro tempore shall determine which standing committee of the house of representatives and the senate, respectively, has subject matter jurisdiction that most closely relates to the electricity, gas, energy policy, and telecommunications jurisdiction of the regulatory flexibility committee. The chairpersons of the standing committees selected under this subsection shall co-chair the regulatory flexibility committee.

(c) The commission shall, by July 1 of each year, prepare for presentation to the regulatory flexibility committee a report that includes the following:

(1) An analysis of the effects of competition and technological change on universal service and on pricing of all telecommunications services offered in Indiana.

(2) An analysis of the status of competition and technological change in the provision of video service (as defined in IC 8-1-34-14) to Indiana customers, as determined by the commission in carrying out its duties under IC 8-1-34. The commission's analysis under this subdivision must include a description of:

(A) the number of multichannel video programming distributors offering video service to Indiana customers;

(B) the technologies used to provide video service to Indiana customers; and

(C) the effects of competition on the pricing and availability of video service in Indiana.

(3) Beginning with the report due July 1, 2007, and in each report due in an odd-numbered year after July 1, 2007:

(A) an identification of all telecommunications rules and policies that are eliminated by the commission under

section 4.1 of this chapter during the two (2) most recent state fiscal years; and

(B) an explanation why the telecommunications rules and policies identified under clause (A) are no longer in the public interest or necessary to protect consumers.

(4) Beginning with the report due July 1, 2010, best practices concerning vertical location of underground facilities for purposes of IC 8-1-26. A report under this subdivision must address the viability and economic feasibility of technologies used to vertically locate underground facilities.

(d) In addition to reviewing the commission report prepared under subsection (c), the regulatory flexibility committee shall also issue a report and recommendations to the legislative council by November 1 of each year that is based on a review of the following issues:

(1) The effects of competition and technological change in the telecommunications industry and impact of competition on available subsidies used to maintain universal service.

(2) The status of modernization of the publicly available telecommunications infrastructure in Indiana and the incentives required to further enhance this infrastructure.

(3) The effects on economic development and educational opportunities of the modernization described in subdivision (2).

(4) The current methods of regulating providers, at both the federal and state levels, and the effectiveness of the methods.

(5) The economic and social effectiveness of current telecommunications service pricing.

(6) All other telecommunications issues the committee deems appropriate.

The report and recommendations issued under this subsection to the legislative council must be in an electronic format under IC 5-14-6.

(e) The regulatory flexibility committee shall meet on the call of the co-chairpersons to study telecommunications issues described in subsection (d). The committee shall, with the approval of the commission, retain the independent consultants the committee considers appropriate to assist the committee in the review and study. The expenses for the consultants shall be paid by the commission."

Page 4, line 16, delete "fine" and insert "**civil penalty**".

Page 4, line 32, delete "adequately identify the site of the" and insert "**provide to the association the physical location of the proposed excavation or demolition by one (1) of the following means:**

(A) A street address.

(B) A legal description of the location.

(C) A highway location using highway mile markers or cross streets."

Page 4, delete lines 33 through 34.

Page 4, line 37, delete "A notice expires twenty (20)".

Page 4, line 38, delete "days after the date on which the notice is served."

Page 6, delete lines 27 through 35, begin a new paragraph and insert:

"(h) A person that:

(1) causes damage to a pipeline facility located in an area of excavation or demolition;

(2) is required to perform white lining under subsection (a)(2); and

(3) fails to perform white lining before an operator of a pipeline facility arrives at the site of the proposed excavation or demolition to mark the operator's pipeline facilities;

may be subject to a civil penalty in an amount recommended by the advisory committee and approved by the commission, not to exceed ten thousand dollars (\$10,000)."

Page 10, line 3, delete "." and insert "**or provides incorrect facility locate markings.**".

Page 11, line 23, delete "underground" and insert "**pipeline**".

Page 12, line 17, delete "nine (9)" and insert "**seven (7)**".

Page 12, delete lines 19 through 30, begin a new line block indented and insert:

"(1) One (1) member representing the association.

(2) One (1) member representing investor owned gas utilities.

(3) One (1) member representing operators of pipeline facilities or pipelines.

(4) One (1) member representing municipal gas utilities.

(5) Two (2) members representing commercial excavators.

(6) One (1) member representing providers of facility locate marking services."

Page 12, delete line 42, begin a new paragraph and insert:

"(g) The pipeline safety division shall investigate alleged violations of this chapter. If the pipeline safety division finds that a person has violated this chapter, the pipeline safety division shall forward its finding to the advisory committee.

(h) The advisory committee shall act in an advisory capacity to the commission concerning the implementation and enforcement of this chapter. In this capacity, the advisory committee may recommend the following penalties with respect to persons that the pipeline safety division has found to violate this chapter:

(1) Civil penalties consistent with this chapter.

(2) Participation in education or training programs developed and implemented by the commission.

(3) Warning letters.

(4) Development of a plan to avoid future violations of this chapter.

Before making a recommendation under this subsection, the advisory committee shall provide notice to the person found to be in violation of this chapter of an opportunity to appear before the advisory committee with respect to the violation.

(i) Upon receiving a recommendation from the advisory committee under subsection (h), and after notice and opportunity for a public hearing, the commission shall do the following as applicable:

(1) Uphold or reverse the finding of a violation by the pipeline safety division under subsection (g).

(2) Approve or disapprove each recommendation of the advisory committee.

(3) Collect any civil penalties and deposit the penalties in the underground plant protection account."

Page 13, delete lines 1 through 21.

Page 14, line 3, delete "23(h)" and insert "**23(i)**".

Page 14, between lines 3 and 4, begin a new paragraph and insert:

"SECTION 21. IC 8-1-26-25 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 25. An operator of a pipeline facility that violates this chapter may be subject to a civil penalty imposed by the commission under IC 8-1-22.5 in addition to a penalty or fine imposed under this chapter.

SECTION 22. IC 8-1-26-26 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 26. The commission shall adopt rules under IC 4-22-2 to carry out its responsibilities under this chapter."

Renumber all SECTIONS consecutively.

(Reference is to SB 487 as reprinted February 18, 2009.) and when so amended that said bill do pass.

Committee Vote: yeas 10, nays 0.

MOSES, Chair

Report adopted.

The House recessed until the fall of the gavel.

RECESS

The House reconvened at 3:10 p.m. with the Speaker in the Chair.

The Speaker ordered the roll of the House to be called to determine the presence or absence of a quorum. Roll Call 379: 75 present. The Speaker declared a quorum present.

ENGROSSED SENATE BILLS ON SECOND READING

Engrossed Senate Bill 345

Representative L. Lawson called down Engrossed Senate Bill 345 for second reading. The bill was read a second time by title.

HOUSE MOTION (Amendment 345-2)

Mr. Speaker: I move that Engrossed Senate Bill 345 be amended to read as follows:

Page 7, between lines 39 and 40, begin a new paragraph and insert:

"SECTION 6. IC 5-2-9-1.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 1.2. As used in this chapter, "IDACS coordinator" means an administrative position within a law enforcement agency that has operational Indiana data and communication system (IDACS) terminals appointed by the director of the law enforcement agency.**

SECTION 7. IC 5-2-9-1.4 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 1.4. As used in this chapter, "Indiana protective order registry" or "registry" means an Internet based registry of protective orders established under section 5.5 of this chapter and developed and maintained by the division of state court administration.**

SECTION 8. IC 5-2-9-1.7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 1.7. As used in this chapter, "protected person" means a person or an employer (as defined in IC 34-26-6-4) protected under a protective order, a no contact order, or a workplace violence restraining order.**

SECTION 9. IC 5-2-9-2.1, AS AMENDED BY P.L.52-2007, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 2.1. (a) As used in this chapter, "protective order" means:**

(1) a protective order issued under IC 34-26-5 (or, if the order involved a family or household member, IC 34-26-2-12(1)(A), IC 34-26-2-12(1)(B), IC 34-26-2-12(1)(C), IC 34-4-5.1-5(a)(1)(A), IC 34-4-5.1-5(a)(1)(B), or IC 34-4-5.1-5(a)(1)(C) before their repeal);

(2) an ex parte protective order issued under IC 34-26-5 (or, if the order involved a family or household member, an emergency protective order issued under IC 34-26-2-6(1), IC 34-26-2-6(2), or IC 34-26-2-6(3) or IC 34-4-5.1-2.3(a)(1)(A), IC 34-4-5.1-2.3(a)(1)(B), or IC 34-4-5.1-2.3(a)(1)(C) before their repeal);

(3) a protective order issued under IC 31-15-4-1 (or IC 31-1-11.5-7(b)(2), IC 31-1-11.5-7(b)(3), IC 31-16-4-2(a)(2), or IC 31-16-4-2(a)(3) before their repeal);

(4) a dispositional decree containing a no contact order issued under IC 31-34-20-1, IC 31-37-19-1, or IC 31-37-19-6 (or IC 31-6-4-15.4 or IC 31-6-4-15.9 before their repeal) or an order containing a no contact order issued under IC 31-32-13 (or IC 31-6-7-14 before its

repeal);

(5) a no contact order issued as a condition of pretrial release, including release on bail or personal recognizance, or pretrial diversion;

(6) a no contact order issued as a condition of probation;

(7) a protective order issued under IC 31-15-5-1 (or IC 31-1-11.5-8.2 or IC 31-16-5 before their repeal);

(8) a protective order issued under IC 31-14-16-1 in a paternity action;

(9) a no contact order issued under IC 31-34-25 in a child in need of services proceeding or under IC 31-37-25 in a juvenile delinquency proceeding;

(10) a workplace violence restraining order issued under IC 34-26-6; or

(11) a child protective order issued under IC 31-34-2.3; or

(12) a foreign protective order registered under IC 34-26-5-17.

(b) Whenever a protective order ~~no contact order, workplace violence restraining order, or child protective order~~ is issued by an Indiana court, the Indiana court must caption the order in a manner that indicates the type of order issued and the section of the Indiana Code that authorizes the protective order. ~~no contact order, or workplace violence restraining order.~~ The Indiana court shall also place on the order the court's hours of operation and telephone number with area code.

SECTION 10. IC 5-2-9-5.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 5.5. (a) The Indiana protective order registry is established.**

(b) The registry is an electronic depository for protective orders. Copies of all protective orders shall be retained in the registry.

(c) The registry must contain confidential information about protected persons.

(d) The division of state court administration shall create, manage, and maintain the registry.

(e) A protective order retained under section 5 of this chapter may be entered in the registry.

SECTION 11. IC 5-2-9-6, AS AMENDED BY P.L.52-2007, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 6. (a) The clerk of a court that issues a protective order ~~no contact order, workplace violence restraining order, or child protective order~~ shall:**

(1) provide a copy of the order to the following: petitioner; and

(1) Each party:

(2) A law enforcement agency of the municipality in which the protected person resides. If a person and an employer are:

(A) both protected by an order under this section; and

(B) domiciled in different municipalities;

the clerk shall send a copy of the order to the law enforcement agency of the municipality in which the person resides and the employer is located:

(3) If the protected person, including an employer, is not domiciled in a municipality; the sheriff of the county in which the protected person resides:

(2) provide a copy of the order and service of process to the respondent or defendant in accordance with the rules of trial procedure.

(b) The clerk of a court that issues a protective order ~~no contact order, workplace violence restraining order, or child protective order~~ or the clerk of a court in which a petition is filed shall

(1) maintain a confidential file to secure any confidential information about a protected person designated on a uniform statewide form prescribed by the division of state court administration.

(2) provide a copy of the confidential form that

accompanies the protective order no contact order; workplace violence restraining order; or child protective order to the following:

(A) The sheriff of the county in which the protective order no contact order; workplace violence restraining order; or child protective order was issued;

(B) The law enforcement agency of the municipality, if any, in which the protected person, including an employer, is domiciled;

(C) Any other sheriff or law enforcement agency designated in the protective order no contact order; workplace violence restraining order; or child protective order that has jurisdiction over the area in which a protected person, including an employer, may be located or protected; and

(3) after receiving the return of service information; transmit all return of service information to each sheriff and law enforcement agency required under subdivision (2).

(c) A sheriff or law enforcement agency that receives **This subsection applies to** a protective order no contact order; workplace violence restraining order; or child protective order that a sheriff or law enforcement agency received under subsection (a) before July 1, 2009, and a confidential form under subsection (b) that was not created in the registry. The sheriff or law enforcement agency shall:

(1) maintain a copy of the protective order no contact order; workplace violence restraining order; or child protective order in the depository established under this chapter;

(2) enter:

(A) the date and time the sheriff or law enforcement agency receives the protective order; no contact order; workplace violence restraining order; or child protective order;

(B) the location of the person who is subject to the protective order, no contact order; workplace violence restraining order; or child protective order, if reasonably ascertainable from the information received;

(C) the name and identification number of the officer who serves the protective order; no contact order; workplace violence restraining order; or child protective order;

(D) the manner in which the protective order no contact order; workplace violence restraining order; or child protective order is served;

(E) the name of the petitioner and any other protected parties;

(F) the name, Social Security number, date of birth, and physical description of the person who is the subject of the protective order, no contact order; workplace violence restraining order; or child protective order, if reasonably ascertainable from the information received;

(G) the date the protective order no contact order; workplace violence restraining order; or child protective order expires;

(H) a caution indicator stating whether a person who is the subject of the protective order no contact order; workplace violence restraining order; or child protective order is believed to be armed and dangerous, if reasonably ascertainable from the information received; and

(I) if furnished, a Brady record indicator stating whether a person who is the subject of the protective order no contact order; workplace violence restraining order; or child protective order is prohibited from purchasing or possessing a firearm or ammunition under federal law, if reasonably ascertainable from the information received;

on the copy of the protective order no contact order;

workplace violence restraining order; or child protective order or the confidential form; and

(3) **except for a protective order that is created in the registry**, establish a confidential file in which a confidential form that contains information concerning a protected person is kept.

(d) **Except for a protective order that is created in the registry**, a protective order no contact order; workplace violence restraining order; or child protective order may be removed from the depository established under this chapter only if the sheriff or law enforcement agency that administers the depository receives:

(1) a notice of termination on a form prescribed or approved by the division of state court administration;

(2) an order of the court; or

(3) a notice of termination and an order of the court.

(e) If a protective order no contact order; workplace violence restraining order; or child protective order in a depository established under this chapter is terminated, the person who obtained the order must file a notice of termination on a form prescribed or approved by the division of state court administration with the clerk of the court. The clerk of the court shall:

(1) **enter the notice of termination into the registry; or**

(2) provide a copy of the notice of termination of a protective order; no contact order; workplace violence restraining order; or child protective order

to the registry and to each of the depositories to which the protective order no contact order; workplace violence restraining order; or child protective order and a confidential form were sent. The clerk of the court shall maintain the notice of termination in the court's file.

(f) If a protective order no contact order; workplace violence restraining order; or child protective order or form in a depository established under this chapter is extended or modified, the person who obtained the extension or modification must file a notice of extension or modification on a form prescribed or approved by the division of state court administration with the clerk of the court. **Except for a protective order created in the registry**, the clerk of the court shall provide a copy of the notice of extension or modification of a protective order no contact order; workplace violence restraining order; or child protective order to each of the depositories to which the order and a confidential form were sent. The clerk of the court shall maintain the notice of extension or modification of a protective order no contact order; workplace violence restraining order; or child protective order in the court's file.

(g) The clerk of a court that issued an order terminating a protective order no contact order; workplace violence restraining order; or child protective order that is an ex parte order shall provide a copy of the order to the following:

(1) Each party.

(2) **Except for a protective order created in the registry**, the law enforcement agency provided with a copy of a protective order no contact order; workplace violence restraining order; or child protective order under subsection (a).

SECTION 12. IC 5-2-9-6.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 6.5. (a) After a court issues a protective order and issues the order to the registry, an IDACS coordinator may provide additional information about the parties in an order, including:**

(1) dates of birth;

(2) Social Security numbers;

(3) driver license numbers; and

(4) physical descriptions of the parties;

to ensure the accuracy of the orders in the registry and information in IDACS.

(b) A law enforcement agency that perfects service of a protective order issued to the registry shall enter into the registry:

- (1) the date and time the law enforcement agency received the protective order;**
- (2) the location of the person who is the subject of the protective order, if this information is available;**
- (3) the name and identification number of the law enforcement officer who serves the protective order; and**
- (4) the manner that the protective order is served.**

SECTION 13. IC 5-2-9-7, AS AMENDED BY P.L.52-2007, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 7. (a) Any information:

- (1) in a uniform statewide confidential form or any part of a confidential form prescribed by the division of state court administration that must be filed with a protective order; ~~no contact order; workplace violence restraining order; or child protective order;~~ or
- (2) otherwise acquired concerning a protected person;

is confidential and may not be divulged to any respondent or defendant.

(b) Information described in subsection (a) may only be used by:

- (1) a court;
- (2) a sheriff;
- (3) another law enforcement agency;
- (4) a prosecuting attorney; or
- (5) a court clerk;

to comply with a law concerning the distribution of the information.

SECTION 14. IC 5-2-9-8, AS AMENDED BY P.L.52-2007, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 8. **Except for a protective order that is created in the registry,** a law enforcement agency that receives a copy of a protective order ~~no contact order; workplace violence restraining order; or child protective order~~ shall enter the information received into the Indiana data and communication system (IDACS) computer under IC 10-13-3-35 upon receiving a copy of the order."

Page 11, between line 32 and 33, begin a new paragraph and insert:

"SECTION 21. IC 34-26-5-3, AS AMENDED BY P.L.3-2008, SECTION 243, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3. (a) The division of state court administration shall:

- (1) develop and adopt:
 - (A) a petition for an order for protection;
 - (B) an order for protection, including:
 - (i) orders issued under this chapter;
 - (ii) ex parte orders;
 - (iii) no contact orders under IC 31 and IC 35;
 - (iv) forms relating to workplace violence restraining orders under IC 34-26-6; and
 - (v) forms relating to a child protective order under IC 31-34-2.3;
 - (C) a confidential form;
 - (D) a notice of modification or extension for an order for protection, a no contact order, a workplace violence restraining order, or a child protective order;
 - (E) a notice of termination for an order for protection, a no contact order, a workplace violence restraining order, or a child protective order; and
 - (F) any other uniform statewide forms necessary to maintain an accurate registry of orders; and
- (2) provide the forms under subdivision (1) to the clerk of each court authorized to issue the orders.

(b) In addition to any other required information, a petition for an order for protection must contain a statement listing each civil

or criminal action involving:

- (1) either party; or
- (2) a child of either party.

(c) The following statements must be printed in boldface type or in capital letters on an order for protection, a no contact order, a workplace violence restraining order, or a child protective order:

VIOLATION OF THIS ORDER IS PUNISHABLE BY CONFINEMENT IN JAIL, PRISON, AND/OR A FINE. IF SO ORDERED BY THE COURT, THE RESPONDENT IS FORBIDDEN TO ENTER OR STAY AT THE PETITIONER'S RESIDENCE OR RESIDENCE OF ANY CHILD WHO IS THE SUBJECT OF THE ORDER, EVEN IF INVITED TO DO SO BY THE PETITIONER OR ANY OTHER PERSON. IN NO EVENT IS THE ORDER FOR PROTECTION VOIDED. PURSUANT TO 18 U.S.C. 2265, THIS ORDER FOR PROTECTION SHALL BE GIVEN FULL FAITH AND CREDIT IN ANY OTHER STATE OR TRIBAL LAND AND SHALL BE ENFORCED AS IF IT WERE AN ORDER ISSUED IN THAT STATE OR TRIBAL LAND. PURSUANT TO 18 U.S.C. 922(g), ONCE A RESPONDENT HAS RECEIVED NOTICE OF THIS ORDER AND AN OPPORTUNITY TO BE HEARD, IT IS A FEDERAL VIOLATION TO PURCHASE, RECEIVE, OR POSSESS A FIREARM WHILE SUBJECT TO THIS ORDER IF THE PROTECTED PERSON IS:

- (A) THE RESPONDENT'S CURRENT OR FORMER SPOUSE;**
- (B) A CURRENT OR FORMER PERSON WITH WHOM THE RESPONDENT RESIDED WHILE IN AN INTIMATE RELATIONSHIP; OR**
- (C) A PERSON WITH WHOM THE RESPONDENT HAS A CHILD.**

INTERSTATE VIOLATION OF THIS ORDER MAY SUBJECT THE RESPONDENT TO FEDERAL CRIMINAL PENALTIES UNDER 18 U.S.C. 2261 AND 18 U.S.C. 2262.

(d) The clerk of the circuit court, or a person or entity designated by the clerk of the circuit court, shall provide to a person requesting an order for protection:

- (1) the forms adopted under subsection (a);
- (2) all other forms required to petition for an order for protection, including forms:
 - (A) necessary for service; and
 - (B) required under IC 31-21 (or IC 31-17-3 before its repeal); and
- (3) clerical assistance in reading or completing the forms and filing the petition.

Clerical assistance provided by the clerk or court personnel under this section does not constitute the practice of law. The clerk of the circuit court may enter into a contract with a person or another entity to provide this assistance. A person, other than a person or other entity with whom the clerk has entered into a contract to provide assistance, who in good faith performs the duties the person is required to perform under this subsection is not liable for civil damages that might otherwise be imposed on the person as a result of the performance of those duties unless the person commits an act or omission that amounts to gross negligence or willful and wanton misconduct.

(e) A petition for an order for protection must be:

- (1) verified or under oath under Trial Rule 11; and
- (2) issued on the forms adopted under subsection (a).

(f) If an order for protection is issued under this chapter, the clerk shall comply with IC 5-2-9.

(g) After receiving a petition for an order for protection, the clerk of the circuit court shall immediately enter the case in the Indiana protective order registry established by

IC 5-2-9-5.5.

SECTION 22. IC 34-26-5-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 8. If a petitioner seeks:

- (1) an order for protection;
- (2) an extension of an order for protection;
- (3) a modification of an order for protection; ~~or~~
- (4) the termination of an order for protection; ~~or~~
- (5) the registration of a foreign protective order;**

the petitioner is responsible for completing the forms prescribed by the division of state court administration and for transmitting those forms to the clerk of the court.

SECTION 23. IC 34-26-5-9, AS AMENDED BY P.L.68-2005, SECTION 59, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 9. (a) If it appears from a petition for an order for protection or from a petition to modify an order for protection that domestic or family violence has occurred or that a modification of an order for protection is required, a court may:

- (1) without notice or hearing, immediately issue an order for protection ex parte or modify an order for protection ex parte; or
- (2) upon notice and after a hearing, whether or not a respondent appears, issue or modify an order for protection.

(b) A court may grant the following relief without notice and hearing in an ex parte order for protection or in an ex parte order for protection modification:

- (1) Enjoin a respondent from threatening to commit or committing acts of domestic or family violence against a petitioner and each designated family or household member.
- (2) Prohibit a respondent from harassing, annoying, telephoning, contacting, or directly or indirectly communicating with a petitioner.
- (3) Remove and exclude a respondent from the residence of a petitioner, regardless of ownership of the residence.
- (4) Order a respondent to stay away from the residence, school, or place of employment of a petitioner or a specified place frequented by a petitioner and each designated family or household member.
- (5) Order possession and use of the residence, an automobile, and other essential personal effects, regardless of the ownership of the residence, automobile, and essential personal effects. If possession is ordered under this subdivision, the court may direct a law enforcement officer to accompany a petitioner to the residence of the parties to:
 - (A) ensure that a petitioner is safely restored to possession of the residence, automobile, and other essential personal effects; or
 - (B) supervise a petitioner's or respondent's removal of personal belongings.
- (6) Order other relief necessary to provide for the safety and welfare of a petitioner and each designated family or household member.

(c) A court may grant the following relief after notice and a hearing, whether or not a respondent appears, in an order for protection or in a modification of an order for protection:

- (1) Grant the relief under subsection (b).
- (2) Specify arrangements for parenting time of a minor child by a respondent and:
 - (A) require supervision by a third party; or
 - (B) deny parenting time;
 if necessary to protect the safety of a petitioner or child.
- (3) Order a respondent to:
 - (A) pay attorney's fees;
 - (B) pay rent or make payment on a mortgage on a petitioner's residence;
 - (C) if the respondent is found to have a duty of support,

pay for the support of a petitioner and each minor child; (D) reimburse a petitioner or other person for expenses related to the domestic or family violence, including:

- (i) medical expenses;
 - (ii) counseling;
 - (iii) shelter; and
 - (iv) repair or replacement of damaged property; or
- (E) pay the costs and fees incurred by a petitioner in bringing the action.

(4) Prohibit a respondent from using or possessing a firearm, ammunition, or a deadly weapon specified by the court, and direct the respondent to surrender to a specified law enforcement agency the firearm, ammunition, or deadly weapon for the duration of the order for protection unless another date is ordered by the court.

An order issued under subdivision (4) does not apply to a person who is exempt under 18 U.S.C. 925.

(d) The court shall:

- (1) cause the order for protection to be delivered to the county sheriff for service;
- (2) make reasonable efforts to ensure that the order for protection is understood by a petitioner and a respondent if present;
- ~~(3) transmit, by the end of the same business day on which the order for protection is issued, a copy of the order for protection to each local law enforcement agency designated by a petitioner;~~

(3) electronically notify each law enforcement agency: (A) required to receive notification under IC 5-2-9-6; or (B) designated by the petitioner;

- (4) transmit a copy of the order to the clerk for processing under IC 5-2-9; ~~and~~
- (5) ~~notify the state police department of indicate in~~ the order if the order and the parties meet the criteria under 18 U.S.C. 922(g)(8); ~~and~~
- (6) require the clerk of court to enter or provide a copy of the order to the Indiana protective order registry established by IC 5-2-9-5.5.**

(e) An order for protection issued ex parte or upon notice and a hearing, or a modification of an order for protection issued ex parte or upon notice and a hearing, is effective for two (2) years after the date of issuance unless another date is ordered by the court. The sheriff of each county shall provide expedited service for an order for protection.

(f) A finding that domestic or family violence has occurred sufficient to justify the issuance of an order under this section means that a respondent represents a credible threat to the safety of a petitioner or a member of a petitioner's household. Upon a showing of domestic or family violence by a preponderance of the evidence, the court shall grant relief necessary to bring about a cessation of the violence or the threat of violence. The relief may include an order directing a respondent to surrender to a law enforcement officer or agency all firearms, ammunition, and deadly weapons:

- (1) in the control, ownership, or possession of a respondent; or
- (2) in the control or possession of another person on behalf of a respondent;

for the duration of the order for protection unless another date is ordered by the court.

(g) An order for custody, parenting time, or possession or control of property issued under this chapter is superseded by an order issued from a court exercising dissolution, legal separation, paternity, or guardianship jurisdiction over the parties.

(h) The fact that an order for protection is issued under this chapter does not raise an inference or presumption in a subsequent case or hearings between the parties.

SECTION 24. IC 34-26-5-17 IS AMENDED TO READ AS

FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 17. (a) A foreign protection order is facially valid if it:

- (1) identifies the protected person and the respondent;
- (2) is currently in effect;
- (3) was issued by a state or tribal court with jurisdiction over the:

- (A) parties; and
- (B) subject matter;

under the law of the issuing state or Indian tribe; and
 (4) was issued after a respondent was given reasonable notice and an opportunity to be heard sufficient to protect the respondent's right to due process. In the case of an ex parte order, notice and opportunity to be heard must be provided within the time required by state or tribal law and within a reasonable time after the order is issued sufficient to protect the respondent's due process rights.

(b) A facially valid foreign protection order is prima facie evidence of its validity. The protection order may be inscribed on a tangible medium or stored in an electronic or other medium if it is retrievable in perceivable form. Presentation of a certified copy of an order for protection is not required for enforcement.

(c) Except as provided in subsection (d), a protection order that is facially valid and issued by a court of a state (issuing state) or Indian tribe shall be accorded full faith and credit by Indiana courts.

(d) A mutual foreign protection order is not entitled to full faith and credit if the order is issued by a state or tribal court against a person who has petitioned, filed a complaint, or otherwise filed a written pleading for protection against a family or household member, unless:

- (1) a separate petition or motion was filed by a respondent;
- (2) the issuing court has reviewed each motion separately and granted or denied each on its individual merits; and
- (3) separate orders were issued and the issuing court made specific findings that each party was entitled to an order.

(e) Registration or filing of a foreign protection order is not a prerequisite to enforcement of the order in Indiana, and a protection order that is consistent with this section shall be accorded full faith and credit notwithstanding a failure to register or file the order in Indiana. However, if a petitioner wishes to register a foreign protection order in Indiana, all Indiana courts of record shall accommodate the request. The division of state court administration shall develop a form to be used by courts, clerks, and law enforcement agencies when a petitioner makes a request to register a foreign protection order. **Except for a protective order issued to the Indiana protective order registry established by IC 5-2-9-5.5**, the courts, clerks of the courts, and sheriffs or law enforcement agencies maintaining depositories shall employ the same procedures required under IC 5-2-9-6 for entering, modifying, extending, or terminating a foreign protection order as those used for a protection order and a no contact order originating in Indiana.

(f) A facially valid foreign protection order shall be enforced by a law enforcement officer and a state court as if it were an order originating in Indiana. The order must be enforced if the foreign protection order contains relief that the state courts lack the power to provide in an order for protection issued in Indiana.

(g) An Indiana law enforcement officer:

- (1) may not require notification, registration, or filing of a facially valid foreign order for protection as a prerequisite to enforcement of an order;
- (2) if a foreign protection order is not presented, may consider other information to determine under a totality of the circumstances whether there is probable cause to believe that a valid foreign order for protection exists; and
- (3) who determines that an otherwise valid foreign protection order cannot be enforced because a respondent has not been notified or served with the order, shall:
 - (A) inform the respondent of the order;

- (B) serve the order on the respondent;
- (C) ensure that the order and service of the order are entered into the state depository;
- (D) allow the respondent a reasonable opportunity to comply with the order before enforcing the order; and
- (E) ensure the safety of the protected person while giving the respondent the opportunity to comply with the order.

(h) After a foreign protective order is registered, the clerk shall enter the order in the Indiana protective order registry established by IC 5-2-9-5.5.

SECTION 25. IC 34-26-5-18, AS AMENDED BY P.L.52-2007, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 18. The following orders are required to be entered into the Indiana data and communication system (IDACS) by a county sheriff or local law enforcement agency:

- (1) A no contact order issued under IC 31-32-13 in a juvenile case.
- (2) A no contact order issued under IC 31-34-20 in a child in need of services (CHINS) case.
- (3) A no contact order issued under IC 31-34-25 in a CHINS case.
- (4) A no contact order issued under IC 31-37-19 in a delinquency case.
- (5) A no contact order issued under IC 31-37-25 in a delinquency case.
- (6) A no contact order issued under IC 33-39-1-8 in a criminal case.
- (7) An order for protection issued under this chapter.
- (8) A workplace violence restraining order issued under IC 34-26-6.
- (9) A no contact order issued under IC 35-33-8-3.2 in a criminal case.
- (10) A no contact order issued under IC 35-38-2-2.3 in a criminal case.
- (11) A child protective order issued under IC 31-34-2.3.
- (12) A foreign protective order registered under IC 34-26-5-17."**

Renumber all SECTIONS consecutively.
 (Reference is to ESB 345 as printed March 24, 2009.)

L. LAWSON

Motion prevailed. The bill was ordered engrossed.

Engrossed Senate Bill 365

Representative Avery called down Engrossed Senate Bill 365 for second reading. The bill was read a second time by title.

HOUSE MOTION
 (Amendment 365-2)

Mr. Speaker: I move that Engrossed Senate Bill 365 be amended to read as follows:

Delete the title and insert the following:
 A BILL FOR AN ACT to amend the Indiana Code concerning family law and juvenile law.

- Page 1, delete lines 1 through 15.
- Delete pages 2 through 23.
- Page 24, delete lines 1 through 3.
- Page 24, delete lines 12 through 42.
- Delete pages 25 through 26.
- Page 27, delete lines 1 through 3.
- Page 28, line 41, reset in roman "and the office of the".
- Page 28, line 42, reset in roman " secretary of family and social services".
- Page 29, delete lines 40 through 42.
- Page 30 , delete lines 1 through 16.
- Page 30, between lines 21 and 22, begin a new paragraph and insert:

"SECTION 5. IC 31-9-2-58.5 IS AMENDED TO READ AS

FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 58.5. "Indicated", for purposes of IC 31-33-8-12, means facts obtained during an **investigation assessment** of suspected child abuse or neglect that:

- (1) provide:
 - (A) significant indications that a child may be at risk for abuse or neglect; or
 - (B) evidence that abuse or neglect previously occurred; and
- (2) cannot be classified as substantiated or unsubstantiated."

Page 30, line 31, delete "either" and insert "**the**".

Page 35, delete lines 17 through 42.

Page 36, delete lines 1 through 25, begin a new paragraph and insert:

"SECTION 13. IC 31-19-8-1, AS AMENDED BY P.L.138-2007, SECTION 38, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. An adoption may be granted in Indiana only after:

- (1) the court has heard the evidence; and
- (2) except as provided in section 2(c) of this chapter, a period of supervision, as described in section 2 of this chapter, by a licensed child placing agency **for a child who has not been adjudicated to be a child in need of services, or if the child is the subject of an open child in need of services action, county office of family and children the local office approved for that purpose by of** the department.

SECTION 14. IC 31-19-8-3, AS AMENDED BY P.L.145-2006, SECTION 249, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3. (a) The department shall annually compile a list of

- ~~(1) licensed child placing agencies and~~
- ~~(2) county offices of family and children;~~

that conduct the inspection and supervision required for adoption of a child by IC 31-19-7-1 and section 1 of this chapter.

(b) The list of licensed child placing agencies ~~and county offices of family and children~~ must include a description of the following:

- (1) Fees charged by each agency. ~~and county office of family and children.~~
- (2) Geographic area served by each agency. ~~and county office of family and children.~~
- (3) Approximate waiting period for the inspection or supervision by each **licensed child placing agency. and county office of family and children.**
- (4) Other relevant information regarding the inspection and supervision provided by ~~an a licensed child placing agency or a county office of family and children~~ under IC 31-19-7-1 and section 1 of this chapter.

(c) The department shall do the following:

- (1) Maintain in its office **or on its web site sufficient** copies of the list compiled under this section for distribution to individuals who request a copy.
- (2) Provide the following persons with sufficient copies of the list prepared under this section for distribution to individuals who request a copy:
 - (A) Each clerk of a court having probate jurisdiction in a county.
 - (B) Each ~~county office of family and children. local office.~~

~~(3) Provide a copy of the list to each public library organized under IC 36-12.~~

(d) The department ~~and each:~~

- ~~(1) county office of family and children;~~
- ~~(2) clerk of a court having probate jurisdiction in a county; and~~
- ~~(3) public library organized under IC 36-12;~~

shall make the list compiled under this section available for

public inspection."

Page 36, delete lines 34 through 42.

Page 37, delete lines 1 through 25, begin a new paragraph and insert:

"SECTION 16. IC 31-19-8-5, AS AMENDED BY P.L.138-2007, SECTION 40, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 5. (a) Except as provided in subsection (c), not more than sixty (60) days ~~from after~~ the date of reference of a petition for adoption to each appropriate agency, ~~each agency or the county office of family and children the licensed child placing agency, in the case of a child who is not adjudicated to be a child in need of services, or the local office of the department, in the case of a child who is the subject of an open child in need of services action,~~ shall submit to the court a written report of the investigation and recommendation as to the advisability of the adoption.

(b) ~~The agency's or county office of family and children's~~ report and recommendation:

- (1) shall be filed with the adoption proceedings; and
- (2) become a part of the proceedings.

(c) A court hearing a petition for adoption of a child ~~(1)~~ may waive the report required under subsection (a) if one (1) of the petitioners is a stepparent or grandparent of the child and the court waives the period of supervision. ~~under section 2(c) of this chapter; and~~

~~(2) may require the county office of family and children or a child placing agency to:~~

- ~~(A) investigate any matter related to an adoption; and~~
- ~~(B) report to the court the results of the investigation;~~

(d) If the court waives the reports required under subsection (a), the court shall require the ~~county office of family and children~~ **licensed child placing agency, in the case of a child who is not adjudicated to be a child in need of services, or, the local office of the department, in the case of a child who is the subject of an open child in need of services action, or a child placing agency** to:

- (1) ~~conduct~~ **ensure** a criminal history check is conducted under IC 31-19-2-7.5; and
- (2) report to the court the results of the criminal history check."

Page 37, line 29, delete "required by section 5 of this chapter".

Page 37, reset in roman line 33.

Page 37, line 33, after "place," insert "**as defined by the department.**"

Page 37, line 38, reset in roman "(4)".

Page 37, line 38, delete "(3)".

Page 38, line 8, delete "report submitted under" and insert "report."

Page 38, line 9, delete "section 5 of this chapter."

Page 38, between lines 12 and 13, begin a new paragraph and insert:

"SECTION 19. IC 31-19-8-8, AS AMENDED BY P.L.138-2007, SECTION 43, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 8. The report and recommendation of the **licensed child placing agency or county office of family and children local office of the department** are not binding on the court but are advisory only."

Page 38, between lines 28 and 29, begin a new paragraph and insert:

"SECTION 21. IC 31-19-17-2, AS AMENDED BY P.L.129-2005, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. A person, a

licensed child placing agency, or a ~~county local office of family and children~~ placing a child for adoption shall prepare a report summarizing the available medical, psychological, and educational records of the person or agency concerning the birth parents. The person, agency, or ~~county local office~~ shall exclude from this report information that would identify the birth parents. The person, agency, or ~~county local office~~ shall give the report to:

- (1) the adoptive parents:
 - (A) at the time the home study or evaluation concerning the suitability of the proposed home for the child is commenced; or
 - (B) with the consent of the adoptive parents, not more than thirty (30) days after the child is placed with the adoptive parents; and
- (2) upon request, an adoptee who:
 - (A) is at least twenty-one (21) years of age; and
 - (B) provides proof of identification.

SECTION 22. IC 31-19-17-3, AS AMENDED BY P.L.1-2006, SECTION 497, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3. The person, licensed child placing agency, or ~~county local office of family and children~~ shall:

- (1) exclude information that would identify the birth parents; and
- (2) release all available social, medical, psychological, and educational records concerning the child to:
 - (A) the adoptive parent; and
 - (B) upon request, an adoptee who:
 - (i) is at least twenty-one (21) years of age; and
 - (ii) provides proof of identification.

SECTION 23. IC 31-19-17-4, AS AMENDED BY P.L.1-2006, SECTION 498, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 4. The person, licensed child placing agency, or ~~county local office of family and children~~ shall provide:

- (1) the adoptive parent; and
- (2) upon request, an adoptee who:
 - (A) is at least twenty-one (21) years of age; and
 - (B) provides proof of identification;

with a summary of other existing social, medical, psychological, and educational records concerning the child of which the person, agency, or ~~county local office~~ has knowledge but does not have possession. If requested by an adoptive parent or an adoptee, the person, agency, or ~~county local office~~ shall attempt to provide the adoptive parent or the adoptee with a copy of any social, medical, psychological, or educational record that is not in the possession of the person, agency, or ~~county local office~~, after identifying information has been excluded.

SECTION 24. IC 31-19-17-5, AS AMENDED BY P.L.1-2006, SECTION 499, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 5. (a) This section applies to an adoption that is granted before July 1, 1993.

- (b) Upon the request of an adoptee who:
 - (1) is at least twenty-one (21) years of age; and
 - (2) provides proof of identification;

a person, a licensed child placing agency, or a ~~county local office of family and children~~ shall provide to the adoptee available information of social, medical, psychological, and educational records and reports concerning the adoptee. The person, licensed child placing agency, or ~~county local office of family and children~~ shall exclude from the records information that would identify the birth parents."

- Page 42, line 12, strike "county" and insert "local".
- Page 42, line 16, strike "county" and insert "local".
- Page 57, delete lines 41 through 42.

Page 58, delete lines 1 through 12, begin a new paragraph and insert:

"SECTION 49. IC 31-33-8-12, AS AMENDED BY

P.L.234-2005, SECTION 126, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 12. (a) Upon completion of an ~~investigation~~, ~~assessment~~, the department shall classify reports as substantiated, indicated, or unsubstantiated.

(b) Except as provided in subsection (c), the department shall expunge ~~investigation assessment~~ records one (1) year after a report has been classified as indicated under subsection (a).

(c) If the department has:

- (1) classified a report under subsection (a) as indicated; and
 - (2) not expunged the report under subsection (b);
- and the subject of the report is the subject of a subsequent report, the one (1) year period in subsection (b) is tolled for one (1) year after the date of the subsequent report."

Page 58, delete lines 33 through 42.

Delete pages 59 through 60.

Page 61, delete lines 1 through 10.

Page 62, line 35, reset in roman "child".

Page 62, line 36, reset in roman "welfare caseworkers".

Page 62, line 36, delete "family case managers."

Page 62, line 37, reset in roman "child welfare".

Page 62, line 38, reset in roman "caseworker".

Page 62, line 38, delete "family case manager".

Page 63, delete lines 20 through 42.

Page 64, delete lines 1 through 8.

Page 64, line 11, strike "6,".

Page 64, delete lines 19 through 42.

Page 65, delete lines 1 through 2, begin a new paragraph and insert:

"SECTION 56. IC 31-34-3-4.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 4.5. (a) **This section applies beginning October 1, 2009.**

(b) If a child is removed from the child's parents under this chapter, within thirty (30) days after the removal of a child from the parents the department shall exercise due diligence to identify and provide notice of the removal to all adult relatives of the child, including relatives suggested by the parent's relative under 42 U.S.C. 671 (a)(29).

(c) Notice under subsection (b) shall not be provided to a relative who is suspected of causing family or domestic violence.

(d) A notice under subsection (b) shall:

- (1) state that the child has been removed from the parents by the department;**
- (2) set forth the options the relative may have under federal, state, or local laws, including the care and placement of the child and other options that may be lost if the relative fails to respond to the notice;**
- (3) describe the requirements for the relative to become a foster parent; and**
- (4) describe additional services available to the child placed in foster care."**

Page 68, line 41, delete "includes assurances that the:" and insert "includes:".

Page 68, line 42, after "(A)" insert "assurances that the".

Page 69, line 3, delete "and".

Page 69, delete lines 4 through 12, begin a new line double block indented and insert:

"(B) the coordination with local education agencies to ensure the child remains in the school where the child is enrolled at the time of removal; and
(C) immediate, appropriate enrollment of the child in a different school if remaining in the same school is not in the best interests of the child."

Page 69, line 36, strike "county office of family and".

Page 69, line 37, strike "children" and insert "local office".

Page 69, line 38, after "twenty-two (22)" delete "months" and insert "months";.

Page 69, delete lines 39 through 41.

Page 70, delete lines 13 through 42, begin a new paragraph and insert:

"SECTION 63. IC 31-35-2-4.5, AS AMENDED BY P.L.146-2008, SECTION 616, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 4.5. (a) This section applies if:

(1) a court has made a finding under IC 31-34-21-5.6 that reasonable efforts for family preservation or reunification with respect to a child in need of services are not required; or

(2) a child in need of services:

(A) has been placed in:

(i) a foster family home, child caring institution, or group home licensed under IC 31-27; or

(ii) the home of a person related (as defined in IC 31-9-2-106.5) to the child;

as directed by a court in a child in need of services proceeding under IC 31-34; and

(B) has been removed from a parent and has been under the supervision of the department **or county probation department** for not less than fifteen (15) months of the most recent twenty-two (22) months, excluding any period not exceeding sixty (60) days before the court has entered a finding and judgment under IC 31-34 that the child is a child in need of services.

(b) A person described in section 4(a) of this chapter shall:

(1) file a petition to terminate the parent-child relationship under section 4 of this chapter; and

(2) request that the petition be set for hearing.

(c) If a petition under subsection (b) is filed by the child's court appointed special advocate or guardian ad litem, the department shall be joined as a party to the petition.

(d) A party shall file a motion to dismiss the petition to terminate the parent-child relationship if any of the following circumstances apply:

(1) That the current case plan prepared by or under the supervision of the department under IC 31-34-15 has documented a compelling reason, based on facts and circumstances stated in the petition or motion, for concluding that filing, or proceeding to a final determination of, a petition to terminate the parent-child relationship is not in the best interests of the child. A compelling reason may include the fact that the child is being cared for by a custodian who is a parent, stepparent, grandparent, or responsible adult who is the child's sibling, aunt, or uncle or a person related (as defined in IC 31-9-2-106.5) to the child who is caring for the child as a legal guardian.

(2) That:

(A) IC 31-34-21-5.6 is not applicable to the child;

(B) the department has not provided family services to the child, parent, or family of the child in accordance with a currently effective case plan prepared under IC 31-34-15 or a permanency plan or dispositional decree approved under IC 31-34, for the purpose of permitting and facilitating safe return of the child to the child's home; and

(C) the period for completion of the program of family services, as specified in the current case plan, permanency plan, or decree, has not expired.

(3) That:

(A) IC 31-34-21-5.6 is not applicable to the child;

(B) the department has not provided family services to the child, parent, or family of the child, in accordance with applicable provisions of a currently effective case plan prepared under IC 31-34-15, or a permanency plan or dispositional decree approved under IC 31-34; and

(C) the services that the department has not provided are substantial and material in relation to implementation of

a plan to permit safe return of the child to the child's home.

The motion to dismiss shall specify which of the allegations described in subdivisions (1) through (3) apply to the motion. If the court finds that any of the allegations described in subdivisions (1) through (3) are true, as established by a preponderance of the evidence, the court shall dismiss the petition to terminate the parent-child relationship."

Delete pages 71 through 73.

Page 74, line 34, delete "county" and insert "**local**".

Page 74, delete lines 38 through 42.

Delete pages 75 through 76.

Page 77, delete lines 1 through 33, begin a new paragraph and insert:

"SECTION 66. IC 31-37-19-1.5, AS ADDED BY P.L.146-2008, SECTION 648, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1.5. (a) This section applies to a delinquent child if the child is placed in an out-of-home residence or facility that is not a secure detention facility.

(b) The probation department, after negotiating with the child's parent, guardian, or custodian, shall complete the child's case plan not later than sixty (60) days after ~~the earlier of:~~

~~(1) the date of the child's first placement or~~

~~(2) the date of a dispositional decree;~~

that is paid for by the department.

(c) A copy of the completed case plan shall be sent to the department, to the child's parent, guardian, or custodian, and to an agency having the legal responsibility or authorization to care for, treat, or supervise the child not later than ten (10) days after the plan's completion.

(d) A child's case plan must be in a form prescribed by the department that meets the specifications set by 45 CFR 1356.21, as amended. The case plan must include a description and discussion of the following:

(1) A permanency plan for the child and an estimated date for achieving the goal of the plan.

(2) The appropriate placement for the child based on the child's special needs and best interests.

(3) The least restrictive family-like setting that is close to the home of the child's parent, custodian, or guardian if out-of-home placement is implemented or recommended, including consideration of possible placement with any suitable and willing relative caretaker, before considering other out-of-home placements for the child.

(4) Family services recommended for the child, parent, guardian, or custodian.

(5) Efforts already made to provide family services to the child, parent, guardian, or custodian.

(6) Efforts that will be made to provide family services that are ordered by the court.

(7) A plan for ensuring the educational stability of the child while in foster care that includes:

(A) assurances that the placement in foster care considers the appropriateness of the current educational setting of the child and the proximity to the school where the child is presently enrolled;

(B) the coordination with local education agencies to ensure the child remains in the school where the child is enrolled at the time of removal; and

(C) immediate, appropriate enrollment of the child in a different school if remaining in the same school is not in the best interests of the child.

(e) Each caretaker of a child and the probation department shall cooperate in the development of the case plan for the child. The probation department shall discuss with at least one (1) foster parent or other caretaker of a child the role of the substitute caretaker or facility regarding the following:

(1) Rehabilitation of the child and the child's parents,

guardians, and custodians.

(2) Visitation arrangements.

(3) Services required to meet the special needs of the child.

(f) The case plan must be reviewed and updated by the probation department at least once every one hundred eighty (180) days."

Page 79, delete lines 12 through 16.

Page 83, delete lines 15 through 42, begin a new paragraph and insert:

"SECTION 70. IC 36-2-14-6.3, AS ADDED BY P.L.225-2007, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 6.3. (a) A coroner shall **immediately notify the local office of the department of child services by using the statewide hotline for the department and:**

(1) the local child fatality review team; or

(2) if the county does not have a local child fatality review team, the statewide child fatality review committee;

of each death of a person who is less than eighteen (18) years of age, or appears to be less than eighteen (18) years of age. ~~and who has died in an apparently suspicious, unusual, or unnatural manner.~~

(b) If a child less than eighteen (18) years of age dies in an apparently suspicious, unusual, or unnatural manner, the coroner shall consult with a child death pathologist to determine whether an autopsy is necessary. If the coroner and the child death pathologist disagree over the need for an autopsy, the county prosecutor shall determine whether an autopsy is necessary. If the autopsy is considered necessary, a child death pathologist or a pathology resident acting under the direct supervision of a child death pathologist shall conduct the autopsy within twenty-four (24) hours. If the autopsy is not considered necessary, the autopsy shall not be conducted.

(c) If a child death pathologist and coroner agree under subsection (b) that an autopsy is necessary, the child death pathologist or a pathology resident acting under the direct supervision of a child death pathologist shall conduct the autopsy of the child."

Page 84, delete line 1.

Page 84, line 3, delete "IC 31-9-2-58.5;"

Page 84, delete lines 5 through 14.

Page 84, line 20, after "school" insert "**districts;**".

Page 84, delete lines 21 through 22.

Page 84, delete lines 41 through 42.

Page 85, delete lines 1 through 15.

Renumber all SECTIONS consecutively.

(Reference is to ESB 365 as printed March 24, 2009.)

T. BROWN

After discussion, Representative T. Brown withdrew the motion.

HOUSE MOTION
(Amendment 365-1)

Mr. Speaker: I move that Engrossed Senate Bill 365 be amended to read as follows:

Page 17, between lines 11 and 12, begin a new paragraph and insert:

"SECTION 15. IC 12-15-2-23.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 23.7. The office may implement the optional provision allowed in 42 U.S.C. 1396p(c)(1)(A) to apply penalties specified in 42 U.S.C. 1396p(c)(1)(A) to a noninstitutionalized individual or the spouse of the noninstitutionalized individual for the disposal of assets for less than fair market value if the number of noninstitutionalized individuals participating in:**

(1) an aged and disabled Medicaid waiver; or

(2) a home and community based services waiver;

is equal to or greater than the number of institutionalized

individuals participating in the Medicaid program."

Renumber all SECTIONS consecutively.

(Reference is to ESB 365 as printed March 24, 2009.)

T. BROWN

Motion failed. The bill was ordered engrossed.

Engrossed Senate Bill 341

Representative Welch called down Engrossed Senate Bill 341 for second reading. Representative Welch withdrew the call of Engrossed Senate Bill 341.

Engrossed Senate Bill 437

Representative Welch called down Engrossed Senate Bill 437 for second reading. The bill was read a second time by title.

HOUSE MOTION
(Amendment 437-1)

Mr. Speaker: I move that Engrossed Senate Bill 437 be amended to read as follows:

Page 1, line 6, delete "cancer chemotherapy." and insert "**both of the following:**

(1) **Orally administered cancer chemotherapy.**

(2) **Cancer chemotherapy that is administered intravenously or by injection."**

Page 1, line 15, delete "(a) An insurer that issues a policy of accident and"

Page 1, delete lines 16 through 17.

Page 2, delete lines 1 through 3.

Page 2, line 4, delete "(b)".

Page 1, run in line 15 through page 2, line 4.

Page 2, line 6, delete "or".

Page 2, line 6, after "deductibles" insert ", **or coinsurance provisions"**.

Page 2, line 7, delete "or".

Page 2, line 8, after "deductibles" insert ", **or coinsurance provisions"**.

Page 2, line 14, delete "cancer" and insert "**both of the following:**

(1) **Orally administered cancer chemotherapy.**

(2) **Cancer chemotherapy that is administered intravenously or by injection."**

Page 2, delete line 15.

Page 2, delete lines 19 through 23.

Page 2, line 24, delete "(d)" and insert "(c)".

Page 2, line 26, delete "or".

Page 2, line 26, after "deductibles" insert ", **or coinsurance provisions"**.

Page 2, line 27, delete "or".

Page 2, line 28, after "deductibles" insert ", **or coinsurance provisions"**.

(Reference is to ESB 437 as printed March 20, 2009.)

WELCH

Motion prevailed. The bill was ordered engrossed.

Engrossed Senate Bill 181

Representative Pierce called down Engrossed Senate Bill 181 for second reading. The bill was read a second time by title.

HOUSE MOTION
(Amendment 181-1)

Mr. Speaker: I move that Engrossed Senate Bill 181 be amended to read as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 16-41-8-1, AS AMENDED BY P.L.135-2005, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. (a) Except as provided in subsections (d) and (e), a person may not disclose or be compelled to disclose medical or epidemiological information

involving a communicable disease or other disease that is a danger to health (as defined under rules adopted under IC 16-41-2-1). This information may not be released or made public upon subpoena or otherwise, except under the following circumstances:

- (1) Release may be made of medical or epidemiologic information for statistical purposes if done in a manner that does not identify an individual.
- (2) Release may be made of medical or epidemiologic information with the written consent of all individuals identified in the information released.
- (3) Release may be made of medical or epidemiologic information to the extent necessary to enforce public health laws, laws described in IC 31-37-19-4 through IC 31-37-19-6, IC 31-37-19-9 through IC 31-37-19-10, IC 31-37-19-12 through IC 31-37-19-23, IC 35-38-1-7.1, and IC 35-42-1-7, **IC 35-42-4-1, IC 35-42-4-2, IC 35-42-4-3, IC 35-42-4-5, IC 35-42-4-7, IC 35-42-4-8, IC 35-42-4-9, IC 35-46-1-3, and IC 35-42-2-6**, or to protect the health or life of a named party.
- (b) Except as provided in subsection (a), a person responsible for recording, reporting, or maintaining information required to be reported under IC 16-41-2 who recklessly, knowingly, or intentionally discloses or fails to protect medical or epidemiologic information classified as confidential under this section commits a Class A misdemeanor.
- (c) In addition to subsection (b), a public employee who violates this section is subject to discharge or other disciplinary action under the personnel rules of the agency that employs the employee.
- (d) Release shall be made of the medical records concerning an individual to:
 - (1) the individual;
 - (2) a person authorized in writing by the individual to receive the medical records; or
 - (3) a coroner under IC 36-2-14-21.
- (e) An individual may voluntarily disclose information about the individual's communicable disease.

(f) The provisions of this section regarding confidentiality apply to information obtained under IC 16-41-1 through IC 16-41-16."

Renumber all SECTIONS consecutively.
(Reference is to ESB 181 as printed March 27, 2009.)

BORROR

Motion prevailed. The bill was ordered engrossed.

Engrossed Senate Bill 546

Representative Bischoff called down Engrossed Senate Bill 546 for second reading. The bill was read a second time by title.

HOUSE MOTION
(Amendment 546-1)

Mr. Speaker: I move that Engrossed Senate Bill 546 be amended to read as follows:

Page 4, between lines 22 and 23, begin a new paragraph and insert:

"SECTION 6. IC 14-26-2-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. As used in this chapter, "natural resources" means the water, fish, plant life, **wildlife**, and minerals in a public freshwater lake."

Renumber all SECTIONS consecutively.
(Reference is to ESB 546 as printed March 20, 2009.)

DODGE

Motion prevailed. The bill was ordered engrossed.

Pursuant to House Rule 60, committee meetings were announced.

On the motion of Representative Fry, the House adjourned at 3:50 p.m., this thirtieth day of March, 2009, until Tuesday, March 31, 2009, at 1:00 p.m.

B. PATRICK BAUER
Speaker of the House of Representatives

CLINTON McKAY
Principal Clerk of the House of Representatives