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FISCAL IMPACT STATEMENT

LS 6924

BILL NUMBER: HB 1260

NOTE PREPARED: Jan 22, 2024

BILL AMENDED: Jan 18, 2024

SUBJECT: Indiana Department of Health.

FIRST AUTHOR: Rep. Barrett

FIRST SPONSOR: Sen. Charbonneau

BILL STATUS: As Passed House

FUNDS AFFECTED: **GENERAL**
 DEDICATED
 FEDERAL

IMPACT: State & Local

Summary of Legislation: *Administrative Law Proceedings:* This bill specifies that provisions of law governing the Office of Administrative Law Proceedings apply to the Indiana Department of Health (IDOH) in matters concerning the involuntary transfer or discharge of a resident of a health facility.

State Health Laboratory: This bill requires the fee amount for a service provided by the State Health Laboratory to be based on the federal Medicare reimbursement rate for the service or if the service does not have a Medicare reimbursement rate, the Medicaid reimbursement rate.

Home Health Employment and Penalty Provision: This bill amends the list of crimes or acts that preclude a home health aide, nurse aide, or other unlicensed employee from employment at a home health agency and certain health care facilities. It requires the IDOH to: (1) investigate any report that a nurse aide or home health aide has been convicted of a certain crime; and (2) after an administrative hearing, remove the individual from the State Nurse Aide Registry. It makes it a Class A infraction for a person convicted of a certain crime to knowingly or intentionally apply for a job as a home health aide or other unlicensed employee at a home health agency or certain health care facilities.

WIC Program: For provisions concerning the Women, Infants, and Children Nutrition Program (WIC program), this bill defines "WIC vendor agreement" and requires the IDOH to include in a WIC vendor agreement a list of sanctions for failing to comply with the agreement. It requires the IDOH to: (1) select WIC program vendors based on selection criteria set forth in federal regulations; (2) review the selection criteria annually; (3) include the selection criteria in the WIC State Plan; and (4) publish the selection criteria on the IDOH's website.

Fatality Review Teams and Committees: This bill includes reporting to Local Child Fatality Review teams, the Statewide Child Fatality Review Committee, Local Fetal-infant Mortality Review teams, and Suicide and Overdose Fatality Review teams for the release of mental health records without the consent of the patient. It amends the membership of the Statewide Child Fatality Review Committee.

Home Based Food Products: For provisions governing home based food products, this bill repeals the term "potentially hazardous food product" and defines "time temperature control for safety food".

Rare Disease Advisory Council Membership: This bill adds the State Health Commissioner or the Commissioner's designee as a member of the Rare Disease Advisory Council (Council). It adjusts the number of Council members required to establish a quorum.

Maternal Mortality Review Committee: This bill repeals the expiration of the maternal mortality review laws.

Effective Date: Upon passage; July 1, 2024.

Explanation of State Expenditures: *Indiana Department of Health (IDOH):* This bill repeals the expiration date of June 30, 2027 for the Statewide Maternal Mortality Review Coordinator (coordinator) and the Statewide Maternal Mortality Review Committee (committee). Eliminating the sunset of the coordinator will require the IDOH to continue employing the coordinator beyond FY 2027. This will increase expenditures for the IDOH starting in FY 2028. The current cost for employing the coordinator is approximately \$100,000, inclusive of salary and benefits (with the cost of future years expected to increase at the average rate of increase of salaries for state employees). Members of the committee do not receive per diem or travel expense reimbursement.

The bill's various requirements represent an additional workload [and/or expenditure] on the IDOH outside of the agency's routine administrative functions, and existing staffing and resource levels, if currently being used to capacity, may be insufficient for full implementation. The additional funds and resources required could be supplied through existing staff and resources currently being used in another program or with new appropriations. Ultimately, the source of funds and resources required to satisfy the requirements of this bill will depend on legislative and administrative actions. *[The IDOH's administrative expenditures are currently paid from the Tobacco Master Settlement Fund, a dedicated fund.]*

Additional Information:

IDOH: This bill requires that the amount charged for a service provided by the State Health Laboratory (laboratory) be based on the federal Medicare reimbursement rate for the service (or the Medicaid reimbursement rate if the service does not have a Medicare rate). The IDOH will need to ensure the amounts charged for laboratory services are updated as required by the bill.

The IDOH must investigate any report that a home health aide or nurse aide has been convicted of a crime, as prescribed in the bill, and if required, remove such aides from the State Nurse Aide Registry.

The IDOH must enter into a Women, Infants, and Children Nutrition Program (WIC program) vendor agreement with each WIC program vendor, and include in the agreement a list of sanctions for failing to comply with the agreement. Also, the IDOH must update, review annually, post on their website, and include in the WIC State Plan, their criteria for selecting a WIC program vendor.

This bill modifies the food safety requirements for items sold by a home-based vendor. which may result in additional inspections conducted by the IDOH (the IDOH may take action against a home-based vendor that is determined to be in violation of the food safety requirements).

The bill adds the IDOH Commissioner, or the Commissioner's designee, to the Rare Disease Advisory Council. Members of the Council that are also state employees are entitled to travel reimbursement.

Administrative Law Proceedings: The IDOH has an existing memorandum of understanding with the Office of Administrative Law Proceedings to have administrative law judges preside over administrative proceedings filed within the IDOH regarding evictions. This bill codifies this existing practice and should not impact workload for the IDOH or the Office of Administrative Law Proceedings. There are approximately 80 such cases per year regarding evictions.

Explanation of State Revenues: *State Health Laboratory:* This bill requires that the amount charged for a service provided by the laboratory be based on the federal Medicare reimbursement rate for the service (or the Medicaid reimbursement rate if the service does not have a Medicare rate). Using the Medicare or Medicaid rates will result in the charge amounts increasing as Medicare and Medicaid rates increase. Any change in overall revenue will depend on the change in the amount charged for each service and the utilization of each laboratory service. Laboratory fees are deposited into the state General Fund as well as IDOH dedicated funds, depending on the type of service rendered.

Home Health Employment and Penalty Provision: The bill creates a Class A infraction for a person convicted of certain crimes to knowingly or intentionally apply for a job as a home health aide or other unlicensed employee at a home health agency or at certain health care facilities. The maximum judgment for a Class A infraction is \$10,000, which would be deposited in the state General Fund. The total court fee revenue per case would range between \$85.50 and \$103. The amount of court fees deposited will vary depending on whether the case is filed in a court of record or a municipal court. The following linked document describes the fees and distribution of the revenue: [Court fees imposed in criminal, juvenile, and civil violation cases.](#)

Additional Information: The work of the state health laboratory is meant to aid in the enforcement of the health laws and must be done exclusively and entirely for the public benefit. Duties of the laboratory are to: (1) analyze foods and drugs for the purpose of enforcing the pure food and drug laws; (2) perform sanitary analyses, pathological examinations, and studies in hygiene and preventive medicine; and (3) support public health activities.

Explanation of Local Expenditures: *Home Health Employment and Penalty Provision:* If a health care facility has knowledge of a conviction of an employee, as prescribed in the bill, the facility must report the information to the State Nurse Aide Registry or the appropriate licensing authority. This is within a health care facility's routine administrative functions.

Explanation of Local Revenues: *Home Health Employment and Penalty Provision:* If additional court actions occur and a judgement is entered, more revenue will be collected by certain local units. If the case is filed in a court of record, the county will receive \$33.90 and qualifying municipalities will receive a share of \$2.10. If the case is filed in a municipal court, the county receives \$20, and the municipality will receive \$33.50. The following linked document describes the fees and distribution of the revenue: [Court fees imposed in criminal, juvenile, and civil violation cases.](#)

State Agencies Affected: Indiana Department of Health; Office of Administrative Law Proceedings; Statewide Child Fatality Review Committee; state-owned health facilities.

Local Agencies Affected: Locally-owned health facilities; Local Child Fatality Review teams; Local Fetal-Infant Mortality Review teams, Suicide and Overdose Fatality Review teams; trial courts, local law enforcement agencies.

Information Sources: Indiana Supreme Court, Indiana Trial Court Fee Manual; Testimony from Rachel Swartwood, IDOH, House Committee on Public Health, January 16, 2024.

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