

HOUSE BILL No. 1372

DIGEST OF INTRODUCED BILL

Citations Affected: IC 4-15; IC 22-2-17.

Synopsis: Emergency management service. Provides that a medical professional who is a full-time employee of the state, a municipal corporation, or a private employer may not be disciplined: (1) for responding to a call (call) for emergency management purposes under certain circumstances; or (2) if injured in responding to a call, due to the injury or absence from employment due to the injury if the employee presents certain documentation concerning the injury. Provides that an employee who is disciplined by a political subdivision employer or private employer for a permitted absence for a call may bring a civil action against the employer within one year of the discipline to recover back wages, fringe benefits, seniority rights, and reinstatement to the employee's former position. Provides that a public servant who permits or authorizes an employee of a municipal corporation or the state under the public servant's supervision to be absent from employment for a call does not commit ghost employment.

Effective: July 1, 2014.

Goodin

January 15, 2014, read first time and referred to Committee on Employment, Labor and Pensions.



Second Regular Session 118th General Assembly (2014)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2013 Regular Session and 2013 First Regular Technical Session of the General Assembly.

HOUSE BILL No. 1372

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

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

- 1 SECTION 1. IC 4-15-10-8, AS AMENDED BY P.L.1-2009,
2 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2014]: Sec. 8. (a) For purposes of this section, "civil air
4 patrol" refers to the Indiana wing of the civil air patrol.
5 (b) For purposes of this section, "emergency service operation"
6 includes the following operations of the civil air patrol:
7 (1) Search and rescue missions designated by the Air Force
8 Rescue Coordination Center.
9 (2) Disaster relief, when requested by the Federal Emergency
10 Management Agency or the department of homeland security
11 established by IC 10-19-2-1.
12 (3) Humanitarian services, when requested by the Federal
13 Emergency Management Agency or the department of homeland
14 security established by IC 10-19-2-1.
15 (4) United States Air Force support designated by the First Air
16 Force, North American Aerospace Defense Command.



1 (c) An employee may not be disciplined for absence from work if:

2 (1) the employee is a member of the civil air patrol;

3 (2) the employee has notified the employee's immediate
4 supervisor in writing that the employee is a member of the civil
5 air patrol;

6 (3) in the event that the employee has already reported for work
7 on the day of the emergency service operation, the employee
8 secures authorization from the employee's supervisor to leave the
9 employee's duty station before leaving to engage in the emergency
10 service operation; and

11 (4) the employee presents a written statement to the employee's
12 immediate supervisor from the commander or other officer in
13 charge of the civil air patrol indicating that the employee was
14 engaged in an emergency service operation at the time of the
15 employee's absence from work.

16 **(d) In addition to this section, section 9 of this chapter applies to**
17 **a medical professional employee employed by an agency.**

18 SECTION 2. IC 4-15-10-9 IS ADDED TO THE INDIANA CODE
19 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
20 1, 2014]: **Sec. 9. (a) This section applies to an individual who is a**
21 **medical professional employed full time by an agency.**

22 **(b) As used in this section, "disaster" has the meaning set forth**
23 **in IC 10-14-3-1.**

24 **(c) As used in this section, "emergency management" has the**
25 **meaning set forth in IC 10-14-3-2.**

26 **(d) As used in this section, "emergency management worker"**
27 **has the meaning set forth in IC 10-14-3-3.**

28 **(e) As used in this section, "medical professional" means an**
29 **individual who is licensed and in good standing as any of the**
30 **following:**

31 **(1) Physician.**

32 **(2) Nurse.**

33 **(3) Mental health practitioner.**

34 **(4) Veterinary practitioner.**

35 **(5) Public health practitioner.**

36 **(f) An employee who responds to a call for assistance to provide**
37 **services as an emergency management worker for a disaster must**
38 **present a written statement to the employee's immediate**
39 **supervisor from a person in charge of the emergency management**
40 **for which the employee provided assistance stating that the**
41 **employee was engaged in emergency management activities at the**
42 **time of the employee's absence from work.**



1 (g) If an employee complies with subsection (f), the employee
2 may not be disciplined:

3 (1) for an absence from employment in order to respond to a
4 call for assistance for a disaster before the time the employee
5 was to report to employment with the agency; or

6 (2) for leaving the employee's duty station to respond to a call
7 for assistance for a disaster if the employee secures
8 authorization from the employee's supervisor to leave the
9 employee's duty station to respond to such a call for assistance
10 whenever the employee has already reported for work.

11 (h) An employee who is injured while the employee is
12 responding to a call for assistance for a disaster may not be
13 disciplined as a result of the injury or an absence from work
14 because of the injury if the employee complies with subsection (i).

15 (i) The immediate supervisor of an employee described in
16 subsection (h) may require the employee to provide evidence from
17 a physician or other medical authority showing:

18 (1) treatment for the injury at the time of the absence; and

19 (2) a connection between the injury and the employee's
20 emergency management activities.

21 (j) To the extent required by federal or state law, information
22 obtained under subsection (i) by an immediate supervisor must be:

23 (1) retained in a separate medical file created for the
24 employee; and

25 (2) treated as a confidential medical record.

26 (k) This section does not affect the right of any individual to
27 receive:

28 (1) benefits to which the individual would otherwise be
29 entitled under:

30 (A) the worker's compensation law (IC 22-3-2 through
31 IC 22-3-6);

32 (B) the worker's occupational diseases law (IC 22-3-7); or

33 (C) any pension law; or

34 (2) any benefits or compensation under any federal law.

35 (l) A public servant (as defined in IC 35-31.5-2-261) who permits
36 or authorizes an employee under the supervision of the public
37 servant to be absent from employment as set forth in this section
38 is not considered to have committed a violation of
39 IC 35-44.1-1-3(b).

40 SECTION 3. IC 4-15-14-9 IS ADDED TO THE INDIANA CODE
41 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
42 1, 2014]: Sec. 9. (a) As used in this section, "agency" has the



1 meaning set forth in IC 4-15-10-1.

2 (b) As used in this section, "employee" has the meaning set forth
3 in IC 4-15-10-1.

4 (c) In addition to this chapter, IC 4-15-10-9 applies to a medical
5 professional employee employed by an agency.

6 SECTION 4. IC 22-2-17 IS ADDED TO THE INDIANA CODE AS
7 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
8 1, 2014]:

9 **Chapter 17. Leave for Emergency Management Service by**
10 **Medical Professionals**

11 **Sec. 1. This chapter does not apply to an employee of the state**
12 **who is subject to IC 4-15-10-9 or IC 4-15-14.**

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

15 **Sec. 3. As used in this chapter, "emergency management" has**
16 **the meaning set forth in IC 10-14-3-2.**

17 **Sec. 4. As used in this chapter, "emergency management**
18 **worker" has the meaning set forth in IC 10-14-3-3.**

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

- 22 (1) Physician.
- 23 (2) Nurse.
- 24 (3) Mental health practitioner.
- 25 (4) Veterinary practitioner.
- 26 (5) Public health practitioner.

27 **Sec. 6. As used in this chapter, "municipal corporation" has the**
28 **meaning set forth in IC 36-1-2-10.**

29 **Sec. 7. (a) This section applies to an individual who is a medical**
30 **professional employed full time by a municipal corporation.**

31 **(b) An employee who responds to a call for assistance to provide**
32 **services as an emergency management worker for a disaster must**
33 **present a written statement to the employee's municipal**
34 **corporation employer from a person in charge of the emergency**
35 **management for which the employee provided assistance stating**
36 **that the employee was engaged in emergency management**
37 **activities at the time of the employee's absence from work.**

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

- 40 (1) for an absence from employment with the municipal
- 41 corporation in order to respond to a call for assistance for a
- 42 disaster before the time the employee was to report to



1 employment with the municipal corporation; or
 2 (2) for leaving the employee's duty station to respond to a call
 3 for assistance for a disaster if the employee secures
 4 authorization from the employee's supervisor to leave the
 5 employee's duty station to respond to such a call for assistance
 6 whenever the employee has already reported for work.

7 (d) An employee who is injured while the employee is
 8 responding to a call for assistance for a disaster may not be
 9 disciplined as a result of the injury or an absence from work
 10 because of the injury if the employee complies with this subsection.
 11 The municipal corporation employer of an employee may require
 12 the employee to provide evidence from a physician or other
 13 medical authority showing:

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

17 (e) To the extent required by federal or state law, information
 18 obtained under subsection (d) by a municipal corporation
 19 employer must be:

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

23 (f) An employee who is disciplined by a municipal corporation
 24 employer in violation of subsection (c) or (d) may bring a civil
 25 action against the employer in the county of employment. In the
 26 action, the employee may seek the following:

- 27 (1) Payment of back wages.
 28 (2) Reinstatement of the employee's former position.
 29 (3) Fringe benefits wrongly denied or withdrawn.
 30 (4) Seniority rights wrongly denied or withdrawn.

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

33 (g) A public servant (as defined in IC 35-31.5-2-261) who
 34 permits or authorizes an employee of a municipal corporation
 35 under the supervision of the public servant to be absent from
 36 employment as set forth in this section is not considered to have
 37 committed a violation of IC 35-44.1-1-3(b).

38 Sec. 8. (a) This section applies to an individual who is a medical
 39 professional employed full time by a private employer.

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

- 42 (1) for an absence from employment in order to respond to a



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

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

8 (c) An employee who responds to a call for assistance to provide
9 services as an emergency management worker for a disaster must
10 present a written statement to the employee's employer from a
11 person in charge of the emergency management for which the
12 employee provided assistance stating that the employee was
13 engaged in emergency management activities at the time of the
14 employee's absence from work.

15 (d) An employee who is injured while the employee is
16 responding to a call for assistance for a disaster may not be
17 disciplined as a result of the injury or an absence from work
18 because of the injury if the employee complies with subsection (e).

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

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

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

- 27 (1) retained in a separate medical file created for the
28 employee; and
29 (2) treated as a confidential medical record.

30 (g) An employee who is disciplined by a private employer in
31 violation of subsection (b) or (d) may bring a civil action against
32 the employer in the county of employment. In the action, the
33 employee may seek the following:

- 34 (1) Payment of back wages.
35 (2) Reinstatement of the employee's former position.
36 (3) Fringe benefits wrongly denied or withdrawn.
37 (4) Seniority rights wrongly denied or withdrawn.

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

40 Sec. 9. This chapter does not affect the right of any individual to
41 receive:

- 42 (1) benefits to which the individual would otherwise be



- 1 **entitled under:**
- 2 **(A) the worker's compensation law (IC 22-3-2 through**
- 3 **IC 22-3-6);**
- 4 **(B) the worker's occupational diseases law (IC 22-3-7); or**
- 5 **(C) any pension law; or**
- 6 **(2) any benefits or compensation under any federal law.**

