



Indiana Association of Area Agencies on Aging

2016 Session of the Indiana General Assembly

Final Legislative Wrap-Up: March 16, 2016

The Indiana General Assembly concluded its 2016 legislative session on March 10, 2016, after a very fast-paced 10 weeks of activity. A little over 200 bills were passed. Below are summaries of legislation of interest to the Area Agencies on Aging and to those that they serve. To access more detailed information about any bill, please see <https://iga.in.gov/legislative/2016/bills/>, and type the bill number of interest into the search query.

I. Related to protection of elderly and endangered adults

SEA 192. Adult protective services report and guardianship study.

Requires APS study and report as follows:

Before December 1, 2016, the office of the secretary of family and social services, in cooperation with the Indiana prosecuting attorneys council, shall do the following:

(1) Prepare and submit a report as described in subsection (b) to the legislative council in an electronic format under IC 5-14-6.

(2) Present the report required under this section to the budget committee.

(b) The report must include:

(1) an estimation of the appropriate staffing levels necessary for the office of the secretary of family and social services and county prosecuting attorney offices to efficiently and effectively manage the investigations of reports of matters related to the abuse, neglect, or exploitation of endangered adults;

(2) identification of:

(A) the circumstances that should result in emergency placement in the case of an adult protective services investigation;

(B) the appropriate types of emergency placements based on those circumstances; and

(C) strategies for improving emergency placement capabilities;

(3) consideration of the benefits and cost of establishing a centralized intake system for reports of matters related to the abuse, neglect, or exploitation of endangered adults;

(4) a statement of consistent standards of care for endangered adults;

(5) a determination of the appropriate levels of training for employees of:

(A) the office of the secretary of family and social services; and

(B) a county prosecuting attorney office;

who are involved in providing adult protective services;

(6) a draft of a cooperative agreement between the office of the secretary of family and social services and the Indiana prosecuting attorneys council that sets forth the duties and responsibilities of the agencies and county prosecuting attorney offices with regard to adult protective services; and (7)

performance goals and accountability metrics for adult protective services to be incorporated in contracts and grant agreements.

(c) The budget committee shall consider the report submitted under this section in formulating the committee's budget recommendations.

Also urges an interim study of visitation, communication, and interaction with a protected person under a guardianship.

Senate concurred with House amendments 44-1 (and the one against was an error.) We were able to remove the guardianship provisions and have these sent to study. The new Probate Study Subcommittee, see below, may take up the issue of revising these guardianship provisions.

SEA 31. Probate study subcommittee.

Establishes a probate study subcommittee of the interim study committee on courts and the judiciary.

Senate concurred in House amendments 44-1.

SEA 350. Criminal history background checks for home health workers.

Requires a home health agency or personal services agency to obtain a national criminal history background check on employees. (Current law requires a limited criminal history record unless certain circumstances exist that would require a national criminal history background check or an expanded criminal history background check.)

Senate concurred with House amendments 44-0. Was amended to allow the national check to be done in the same manner as for teachers, through name or fingerprints.

SEA 221. Securities and financial protection.

Defines "financially endangered adult" as an individual who is: (1) at least 65 years of age; or (2) at least 18 years of age and is incapable, by reason of certain mental or physical incapacities, of managing the individual's property. Defines "qualified individual" as an individual associated with a broker-dealer who serves in a supervisory, compliance, or legal capacity as part of the individual's job. Provides that "protective agencies" refers to the adult protective services unit and the securities commissioner. Requires that a qualified individual who has reason to believe that financial exploitation of a financially endangered adult has occurred, has been attempted, or is being attempted shall make a report and notify the protective agencies. Allows a qualified individual to refuse a request for disbursement of funds from an account: (1) owned by a financially endangered adult; or (2) of which a financially endangered adult is a beneficiary or beneficial owner; if the qualified individual has reason to believe that the requested disbursement will result in financial exploitation of the financially endangered adult. Establishes requirements for notification by a broker-dealer or qualified individual if a qualified individual refuses a request for disbursement of funds. Provides for expiration of the refusal of disbursement. Provides broker-dealers and qualified individuals certain immunity from administrative or civil liability. Allows broker-dealers to provide to certain entities access to or copies of records relevant to a suspected financial exploitation. Requires the securities commissioner to develop and make available on the secretary of state's Internet web site information that includes training resources to assist in the prevention and detection of financial exploitation of financially endangered adults. Changes deposits into the securities division enforcement account and state general fund from 50%, to each fund, of the first \$2,000,000 of amounts recovered from: (1) civil penalties; (2) settlements of actions; and (3) judgments awarded; in the enforcement of the securities law to 50%, to each fund, of the first \$4,000,000. Specifies that any amount exceeding \$4,000,000 is deposited into the state general fund.

Senate concurred with House amendments 44-0.

SEA 323 Legislative studies.

Requires the legislative services agency to: (1) study the combined reporting approach to apportioning income and transfer pricing for income tax purposes; and (2) report the results of the study before October 1, 2016, to the legislative council and to the interim study committee on fiscal policy. Requires the interim study committee on fiscal policy to hold at least one public hearing at which the legislative services agency presents the results of the study. Urges the legislative council to assign an interim study committee certain study topics related to gaming and. **Urges the legislative council to assign the topic of federal requirements for home and community based settings to the interim study committee on fiscal policy.**

Senate concurred with House amendments 44-0.

HEA 1069. No contact and protective orders and battery.

Allows a petition to be filed with the juvenile court to order a person to refrain from contact with a member of a foster family home. Makes battery a Class A misdemeanor instead of a Class B misdemeanor if the offense is committed against a member of a foster family home by a person who is not a resident of the foster family home if the person who committed the offense is a relative of a person who lived in the foster family home at the time of the offense. Makes the offense a Level 6 felony if it results in bodily injury to a member of the foster family. Removes the sentencing enhancement for battery committed against a family or household member in the presence of a child from the battery statute and places it in the domestic battery statute. Specifies that numerous provisions in the battery statute constitute domestic battery if they are committed against a family or household member. Makes certain other changes to penalties concerning the offense of battery. Provides that a person who knowingly or intentionally violates a no contact order in a child in need of services proceeding or in a juvenile delinquency proceeding commits a Level 6 felony.

Includes endangered adults in re-ordering of battery statute. Not yet sure if elevates some penalties for crimes against endangered adults. Conference Committee Report passed 96-0, 49-1.

II. Other guardianship/probate

SEA 371. Probate matters.

Provides that an individual otherwise qualified for certain property tax deductions for property that the individual occupies as a beneficiary of the trust that owns the property is not required to be considered the owner of the property under the rules of construction for the property tax law for the trust to receive the property tax deduction. Transfers certain inheritance tax duties from the probate court, county assessor, and county treasurer to the department of state revenue with respect to inheritance tax returns filed after March 31, 2016. Revises the inheritance tax allocation statute so that the current allocation between the counties and the state is unaffected by the transfer of inheritance tax duties. Provides that a will contest must be initiated in the same cause of action. Specifies the priority of a personal representative and stepchildren with respect to the disposition of a decedent's body and funeral arrangements. Specifies that a court must consider a standby guardian designation when appointing a guardian. Specifies that for purposes of a guardianship appointment, a person designated a standby guardian is second in priority to a person designated in a durable power of attorney. Specifies how property passes in a transfer on death transfer if the beneficiary disclaims the property. Makes technical corrections.

Passed Senate 50-0. Passed House 94-0. On way to the Governor.

III. Disabled

SEA 11. ABLE savings accounts; Medicaid reimbursement rates.

Creates the "achieving a better life experience" (ABLE) authority (authority). Establishes the ABLE board (board) of the authority. Provides that the authority may establish a qualified ABLE program under which a person may make contributions for a taxable year for the benefit of an eligible individual with a disability to an ABLE account to meet the qualified disability expenses of the designated beneficiary in compliance with federal law. Sets forth duties and powers of the authority and the board. Establishes a general operating fund, endowment fund, and trust fund. Removes language that specifies Medicaid reimbursement rates for services provided by: (1) an ICF/MR facility; or (2) a community residential facility for the developmentally disabled. Voids an administrative rule that specifies Medicaid reimbursement rates for services by these facilities.

Senate concurred in the House amendments 45-0. House Ways and Means added the language voiding state Medicaid reimbursement rules for ICF/MR and DD. Governor having bill signing on March 21.

HEA 1012. Developmental disability bracelet and identification card.

Requires the state department of health (state department), upon request, to issue a bracelet, an identification card, or both indicating that an individual has been medically diagnosed with a developmental disability. Allows the state department to charge a fee for the bracelet and identification card. Provides that the information collected by the state department is confidential and establishes requirements before information may be released under a court order. (This conference committee report: (1) requires the state department to adopt rules concerning the information that appears on a bracelet or an identification card; (2) establishes requirements before information may be released under a court order; and (3) makes a technical correction.)

Conference Committee Report passed 91-0, 50-0.

III. Healthcare

HEA 1263. Telemedicine.

Requires the secretary of family and social services to provide information concerning the Medicaid program, the healthy Indiana plan, and the children's health insurance program to the legislative services agency upon request for the purposes of doing analysis related to those programs. Sets forth requirements that must be met before: (1) a physician; (2) a physician assistant; (3) an advanced practice nurse; or (4) an optometrist; with prescriptive authority may issue a prescription to a patient receiving telemedicine services. Specifies jurisdiction for out-of-state providers providing health care services to patients located in Indiana through the use of telemedicine and requires these providers and entities that employ or contract with these providers to certify certain information with the professional licensing agency. Provides that certain drugs and devices may not be prescribed through the use of telemedicine. Authorizes the medical licensing board to adopt rules establishing guidelines for the practice of telemedicine.

Conference Committee Report passed 86-0, 48-1.

HEA 1347: Mental health matters.

Requires the office of Medicaid policy and planning to reimburse under the Medicaid program: (1) certain advanced practice nurses for specified Medicaid services; (2) certain graduate and post-graduate degree level students in specified fields who are interning or in a practicum at a community mental health center under the direct supervision of a licensed professional; and (3) licensed clinical addiction counselors who under the clinical supervision of a physician or health service provider in psychology. Requires the department of insurance (department), in consultation with the office of the secretary of family and social services, to review, study, and make recommendations concerning the capacity, training, and barriers to health navigators in assisting individuals in obtaining health insurance program coverage. Requires the department to report their findings to the interim study committee on public health, behavioral health, and human services before September 30, 2016.

House concurred with Senate amendments 89-0.

SEA 214. Controlled substances.

Prohibits Medicaid reimbursement for Subutex, Suboxone, or a similar trade name or generic of the drug if the drug was prescribed for the treatment of pain or pain management and the drug is only indicated for addiction treatment. Requires the office of the secretary and the division of mental health and addiction to develop a treatment protocol containing best practice guidelines for the treatment of opiate dependent patients to be used by certain office based opioid treatment providers. Requires the office of the secretary to recommend certain best practice guidelines to: (1) the professional licensing agency; (2) the office of Medicaid policy and planning (office); and (3) a managed care organization that has contracted with the office.

Senate concurred with House amendments. 49-0

SEA 272. Palliative care and quality of life advisory council.

Establishes the palliative care and quality of life advisory council, and sets forth member requirements. Specifies the purpose and duties of the advisory council.

Passed Senate 50-0. Passed House 94-0, on way to Governor.

IV. Housing/Taxation

SEA 309. State and local taxation.

Eliminates the exemption for property taxes during the planning and construction of a residence that is conveyed upon completion to a low income individual by a nonprofit organization. Restricts but does not eliminate the exemption for property taxes for improvements on real property that are constructed, rehabilitated, or acquired for the purpose of providing low income housing. [.....Other provisions....] Urges the legislative council to assign to a study committee the topic of the eligibility of low income housing for a property tax exemption.

Conference committee report passed 70-23, 49-1.