

ICCMHC 2010 Legislative Session

Bill Tracking List

ICCMHC Priority Number:

4-Watch

3- Indirect Impact

2- Direct Impact

1- Critical

SB 26

Child Solicitation

Authors: Head

Synopsis: Makes child solicitation committed by a person at least 21 years of age against a child under 14 years of age a Class C felony if the person performs an overt act demonstrating an intent to physically meet the child. Enhances the penalty to a Class B felony if it is committed by means of a computer network, and to a Class A felony if it is committed by means of a computer network by a person who has a prior conviction for child solicitation by means of a computer network. (The introduced version of this bill was prepared by the sentencing policy study committee.).

Fiscal Impact: The Department of Correction (DOC) is estimated to need new beds beginning in FY 2011. The following table shows that the projected number of new beds needed would level off in FY 2013. *Background and Analysis*— Under current law, there is no requirement that a person actually complete the act of meeting with his or her victim to commit the crime of child solicitation. This bill would create new penalties when a person over the age of 21 solicits a child younger than 14 years of age and performs an overt act to physically meet the victim. The following table shows these proposed changes. To estimate the added number of beds that would be needed, LSA calculated the length of stay of all felony offenders who were released from DOC facilities in CY 2007 and 2008. During CY 2007 and CY 2008, an average of 15 Class C felony offenders and 10 Class D felony offenders, all over 21 years of age, were committed to DOC each year for the crime of child solicitation. No offenders were committed for Class B felonies under this section. LSA assumes that all offenders who were over the age of 21 would be affected by this bill. The sentencing court may suspend the sentence of the offender so that the person could avoid prison time and be assigned to probation, community corrections, or some other form of community supervision. These offenders would be required to register as sex offenders with the local law enforcement agency. If more defendants are detained in county jails prior to their court hearings, local expenditures for jail operations may increase. The average cost per day is approximately \$44.

ICCMHC Priority: 4

Bill Status: Dead

SB 62

Removal of FSSA Expiration Date

Authors: Miller

Synopsis: Removes the expiration dates for the office of the secretary of family and social services, the office of Medicaid policy and planning, the statutes concerning directors of divisions within family and social services (FSSA), and certain advisory committees under the FSSA statutes. (The introduced version of this bill was prepared by the select joint commission on Medicaid oversight.)

Fiscal Impact: This bill eliminates the expiration date for the administrative structure of FSSA. The current expiration date is June 30, 2011. The FSSA administrative offices affected are: (1) The Office of the Secretary of Family and Social Services. (2) The Office of Medicaid Policy and Planning. The bill also eliminates the expiration date of a statute that governs procedures of the Family and Social Services Committee and the division advisory councils and the expiration date of statutes that relate to certain powers of the directors of the following divisions: (1) Disability and Rehabilitative Services. (2) Family Resources. (3) Mental Health and Addiction. (4) Aging. This bill

will authorize the current administrative structure of FSSA to continue past June 30, 2011, with no further expiration dates. The expiration of the statutory authority would not necessarily have an immediate fiscal impact depending upon the actions of the administration. Upon its statutory expiration on July 1, 1999, FSSA was extended by the Governor's executive order. Any potential fiscal impact from the termination of the authority for the positions would likely arise from the loss of appointing authority. Any potential fiscal impact of the termination of the entities authorized in the statute would involve the loss of rule-making authority as well as the federal single-state-agency designations, such as for Medicaid and Vocational Rehabilitation, that is vested in these entities. Current salary and fringe benefit levels of the Secretary of FSSA, five broad-band executives, and four division directors total about \$1,455,500 per year. Potential costs associated with the Family and Social Services Committee (assuming 12 meetings per year) and the 3 division advisory councils (assuming 12 meetings per year per council) would be about \$38,000 per year. Therefore, the total expenditures associated with the ten administrative positions and the advisory bodies total about \$1.5 M per year. (If the statutory elimination of the offices were construed to include all individuals employed within the offices of FSSA, the total personnel costs associated with those positions would be significantly greater.)

ICCMHC Priority: 2

Bill Status: Passed Senate, Referred to House

SB 79 **Mental Health Quality Advisory Committee** **Authors: Lawson, C**

Synopsis: Mental health quality advisory committee. Defines "waste" for purposes of the limits the office of Medicaid policy and planning may put on drug use under the Medicaid program and the children's health insurance program. Allows the office of Medicaid policy and planning to restrict the use of certain drugs by individuals less than 18 years of age in certain circumstances.

Fiscal Impact: None

ICCMHC Priority: 2

Bill Status: Third Reading

SB 95 **Prohibit Smoking in Public Places** **Authors: Errington**

Synopsis: Prohibits smoking in public places and places of employment. Establishes certain civil penalties for violations. Requires that the civil penalties collected for violations be deposited into the tobacco use prevention and cessation trust fund. Repeals provision in the current clean indoor air laws that are not consistent with this act.

Fiscal Impact: *Gaming Tax Revenue:* The smoking prohibition is estimated to reduce revenue from the riverboat wagering tax, riverboat admission tax, and slot machine wagering tax. The smoking prohibition also is estimated to increase payments to replace shortages in riverboat admission tax distributions to local units and state agencies. The potential impact of the smoking prohibition on tax revenue from parimutuel wagering at racetracks and off-track betting facilities, charity gaming, and Type II gaming at bars and taverns is unknown. The table below summarizes the estimated net impact to the state from reduced collections of taxes on the riverboat casinos and racinos as a result of the smoking prohibition.

Fund FY 2011 FY 2012

Gaming Taxes General Fund (\$91.5 M - \$180.4 M) (\$91.5 M - \$180.4 M)

Admission Tax Replacement General Fund \$0.0 (\$2.8 M - \$5.7 M)

Gaming Taxes Other Funds (\$0.6 M - \$1.2 M) (\$0.6 M - \$1.2 M)

Total (\$92.1 M - \$181.6 M) (\$94.9 M - \$187.3 M)

Explanation of State Expenditures: *Riverboat Admission Tax Replacement Payments:* Reductions in riverboat admission tax collections due to the smoking prohibition would increase annual payments made from the state General Fund to offset shortages in admission tax distributions to certain local units, the Division of Mental Health,

and the State Fair Commission. It is estimated that the increased payments could total \$2.8 M to \$5.7 M annually beginning in FY 2012. Under current statute, local units, the Division of Mental Health, and the State Fair Commission which receive admission tax revenue from the riverboat casinos (excluding the French Lick Casino) are annually guaranteed to receive an amount of revenue equal to the distribution amount received in FY 2002. If the distribution received in a fiscal year is less than the FY 2002 distribution amount, the local unit or state agency receives a payment equal to the shortage from the state General Fund by September 15th of the following fiscal year. (Note: The admission tax guarantee does not apply to local units or state agencies receiving admission tax revenue from the French Lick Casino.) *Enforcement of Smoking Prohibition:* The bill specifically allows the Indiana State Department of Health (ISDH), the Alcohol and Tobacco Commission, their designees, and the Division of Fire and Building Safety to enforce the smoking ban and respond to filed complaints alleging noncompliance. Also local fire departments may enforce the ban as part of their inspection programs. *Background-* Under current law, the Clean Indoor Air Law is under the sections of the Indiana Code concerning the ISDH. Enforcement of the statute is not assigned, meaning that it is enforced by law enforcement officers. There are no data available to estimate the number of public places where enforcement will occur. These state agencies could enforce the smoking ban with their own enforcement agents or delegate enforcement to other local agencies. (Under IC 34-28-5, all law enforcement officers have authority to enforce infractions.) Also, they could actively enforce the smoking ban or choose to only investigate complaints received. These management decisions will determine the additional staffing requirements.

Explanation of State Revenues: Gaming Tax Revenue: The smoking prohibition would apply to: (1) pari-mutuel horse racetracks; (2) off-track betting facilities; (3) facilities where charitable gaming is conducted; (4) riverboat casinos; and (5) racinos. The smoking prohibition also would apply to bars and taverns conducting Type II gaming. The table below summarizes the estimated state revenue loss from taxes imposed on the riverboat casinos and racinos as a result of the smoking prohibition.

Tax Annual Revenue Loss

Riverboat Wagering Tax \$79.4 M - \$156.3 M

Riverboat Admission Tax \$0.9 M - \$1.8 M

Slot Machine Wagering Tax \$11.8 M - \$23.5 M

Total \$92.1 M - \$181.6 M

The revenue loss estimates are based on the May 27, 2009, Revenue Technical Committee forecast of FY 2011 adjusted gross receipts (AGR) from gaming at the state's riverboat casinos and racinos and attendance at the riverboat casinos. (Note: The revenue loss estimate will be updated when the Revenue Technical Committee issues a new revenue forecast on December 15, 2009.) The lower bound estimates assume attendance reductions of 5% and AGR reductions of 10%. The higher bound estimates assume attendance reductions of 10% and AGR reductions of 20%. The table below summarizes the estimated state revenue loss by affected fund or agency as a result of the smoking prohibition.

Fund/Agency Affected Annual Revenue Loss

General Fund \$91.5 M - \$180.4 M

West Baden Historic Hotel Preservation and Maintenance Fund \$0.5 M - \$1.1 M

Indiana Economic Development Corporation \$60,000- \$120,000

Total \$92.1 M - \$181.6 M The potential impact of the smoking prohibition on tax revenue from parimutuel wagering at racetracks and off-track betting facilities, charity gaming, and Type II gaming at bars and taverns is unknown. Any reductions in these revenue sources would affect the state General Fund, the Build Indiana Fund, the Livestock Industry Promotion and Development Fund, and the State Fair Commission. In FY 2009, the parimutuel taxes generated \$4.2 M, the charity gaming excise tax generated \$1.4 M, and the Type II gaming excise tax generated about \$300,000. *Enforcement of Smoking Prohibition:* There are no data available to indicate if more people will violate smoking prohibitions due to changes in: -the definition of public places, -the addition of places of employment, or -the exemptions from regulation. Also, there are no data available to indicate if more people will violate the smoking ban with the addition of a reasonable distance of a public place or place of employment or in designated areas added to the element of the ban. The bill decreases the penalty for smoking in a prohibited area from a Class B infraction to a Class C infraction, and it removes an enhanced penalty of a Class A infraction for repeat offenses. For all violations of the ban, the bill imposes a fine of \$50, which is to be deposited in the Tobacco Use Prevention and Cessation Trust Fund. Additionally, the bill imposes a Class C infraction on the official in charge

of a public place, place of employment, or other area where smoking is prohibited for failing to meet the requirements of the law. Currently, there is no specific penalty for this violation. The civil judgment increases based on prior offenses as follows: \$100 - First offense. \$200 - Second offense within a year of a previous violation. \$500 - Subsequent offense within a year of a previous violation. The bill provides that each day a violation occurs is a separate violation of the section. All judgments collected under this section will be deposited in the Tobacco Use Prevention and Cessation Trust Fund. *Background - Gaming Tax Revenue:* The smoking prohibition as applied to Indiana's casinos and racinos could potentially lead to significant reductions in revenue from the riverboat wagering tax, the riverboat admission tax, and slot machine wagering taxes. These reductions would occur to the extent that the smoking ban: (1) reduces attendance by smoking patrons at the riverboat casinos and racinos without replacement by other patrons; and (2) reduces the gaming intensity by smoking patrons - the average amount of time smoking patrons spend gambling - when they do go to a casino or racino. The reduction in admission tax revenue also would lead to an increase in supplemental admission tax replacement payments from the state General Fund to local units and state agencies receiving admission tax revenue. It is estimated that overall attendance reductions could be as high as 10% and overall reductions in adjusted gross gaming receipts could be as high as 15% to 20%. These impact estimates are based on econometric studies of smoking ban impacts on casinos in Delaware and Illinois. Econometric research estimating the impact of a smoking ban on slot machine revenue in Victoria, Australia, as well as data on slot machine performance in Pennsylvania casinos after a smoking ban commenced also confirms the results of the Delaware and Illinois studies. *Enforcement of Smoking Prohibition:* The maximum judgment for a Class B infraction is \$1,000, while the maximum judgment for a Class C infraction is \$500. Proceeds from infraction judgments are deposited in the state General Fund. Court fees of \$70 are charged for infractions. The Tobacco Use Prevention and Cessation Trust Fund is operated by the State Department of Health to make grants to implement the long-range state plan and pay the general operating and administrative expenses of the executive board of the Fund. The Fund consists of money distributed from the Indiana Tobacco Master Settlement Agreement Fund by statute; appropriations from other sources; grants, gifts, and donations; and accrued interest. Money in the fund at the end of a state fiscal year does not revert to the state General Fund.

Explanation of Local Expenditures: None Explanation of Local Revenues: *Gaming Tax Revenue:* The smoking prohibition is estimated to reduce distributions to certain local units from the riverboat wagering tax, the riverboat admission tax, the county slot machine wagering tax, and the supplemental slot machine wagering tax. The reduction could total \$4.5 M to \$10.8 M annually. The potential local revenue losses from riverboat taxes beginning in FY 2011 are described in the table below.

Riverboat Casino Taxes Annual Revenue Loss

Recipients Wagering Tax Admission Tax

Michigan City \$0 - \$1.0 M -
 Rising Sun \$0.8 M - \$1.7 M -
 Gary \$0.8 M - \$2.4 M -
 Orange County \$0.2 M - \$0.5 M \$52,000 - \$0.1 M
 Orleans \$0.1 M - \$0.3 M \$12,000 - \$24,000
 Paoli \$0.1M - \$0.3 M \$12,000 - \$24,000
 French Lick \$0.2 M - \$0.4 M \$24,000 - \$47,000
 West Baden Springs \$0.2 M - \$0.4 M \$24,000 - \$47,000
 Orange County Dev. Commission \$0.2 M - \$0.4 M \$24,000 - \$47,000
 Orange County CVB \$14,000 - \$27,000 -
Total \$2.7 M - \$7.4 M \$0.1 M - \$0.3 M

The potential local revenue losses from slot machine taxes beginning in FY 2011 are described in the table below.

Slot Machine Taxes Annual Revenue Loss

Recipients County Tax Supplemental Tax

Madison County \$0.6 M - \$1.2 M -
 Shelby County \$0.6 M - \$1.1 M -
 French Lick Casino - \$0.4 M - \$0.8 M
Total \$1.2 M - \$2.3 M \$0.4 M - \$0.8 M

A local unit that is a docksite for a riverboat casino (other than local units receiving wagering tax revenue from the French Lick Casino) receives 25% of the wagering tax generated by the riverboat casino up to a maximum of the distribution amount the local unit received in FY 2002. In the case of the riverboat casinos in Gary, Michigan City,

contract in a county jail. To estimate the potential range of new costs, LSA used two measures. First, LSA compared the credit class of 16,642 offenders who were housed in DOC facilities on December 31, 2008, and December 31, 2009. Of these offenders, 81 had been reassigned from Class 1 Credit Time to Class 2 or 3.

Change in Credit Class of 16,642 DOC Offenders

Between Dec. 31, 2008 and Dec. 31, 2009

Credit Class Downgrade No Change Upgrade Grand Total

1 76 15,175 15,251

2 5 171 677 853

3 107 431 538

Grand Total 81 15,453 1,108 16,642 In the other measure, between December 1, 2008, and December 1, 2009, DOC reported that 2,635 offenders had a disciplinary hearing in which they were found guilty. Whether they would lose credit time for these violations was not available. Of these offenders, 2,117 had either less than a high school diploma or no information in their records. If at a minimum DOC tested these offenders, the added costs could be around \$850,000 if DOC would have to contract with an outside psychologist. The following illustrates what the potential costs would be.

Cost of Testing DOC Offenders Committed

Offenders

Affected

Number of Hours

per Subject

Cost per

Hour

Total

Costs

81 x 2 x \$200 = \$32,400

2,117 x 2 x \$200 = \$846,800

Source for Hours per Subject and Cost per Hour: Steven Ross, PsyD, HSPD *Background*– DOC reports that the most prevalent violations are shown in the table below between December 1, 2008, and December 1, 2009. The number that resulted in reduction from Class I to Class 2 or Class 3 for good time credits was not known.

Violation Number of Offenses

Refusing an Order 5,282

Entering or Remaining in an Unauthorized Area 4,459

Violating Facility Rule 3,736

Refusing an Assignment 3,137

Disruptive Behavior 2,097

Unauthorized Possession of Food Items 1,860 IC 35-50-6-3 specifies the credit time that each credit class earn. Class I offenders earn one day of credit time for each day the person is imprisoned for a crime or confined awaiting trial or sentencing. Class II offenders earn one day of credit time for every two days the person is imprisoned for a crime or confined awaiting trial or sentencing. Class III offenders earn no credit time. *Bureau of Developmental Disabilities Services* – This provision will have no fiscal impact for the following reasons: 1. The bill will require service providers who are currently not accredited through a listed accrediting authority to seek accreditation. Accreditation fees will be paid by the provider. 2. DDRS does not necessarily contract with these providers, but does provide an annual budget to individuals with developmental disabilities. 3. If service providers raise service rates to cover costs of accreditation, it is at the service consumer’s discretion to receive less services for more money or go to service providers who charge less for services. 4. Any increases in service rates will not affect DDRS expenditures.

Explanation of State Revenues: Explanation of Local Expenditures: Presentence Investigation Reports – This bill could add new costs to counties, depending on the number of persons who would be subject to diagnostic testing. The added costs will depend on whether the information on the defendant’s school and mental health history has already been admitted into evidence during the criminal proceeding. In 2008, about 3% of all felony and murder cases were disposed by trial before a jury or a judge. In these cases, a defendant’s intellectual impairments and mental health history would likely be included in evidence and on the public record. About 77% of the felony cases in 2008 that would need presentence investigations were disposed by a guilty plea. In these proceedings the

background of the defendant is not presented to the court in a public record, so the probation officers who prepared the presentence investigation reports would not be able to find this information in any background material in the court records. If the sentencing courts are required to order and pay for these tests, the following table presents an estimate of the costs. The money would presumably come from county general funds.

Cost of Providing Testing for Presentence Investigation Reports

Number of Presentence Investigations (1)

Number of Hours per Subject (2) Cost per Hour (2)

Percent of Cases

Disposed by

Guilty Plea (3)

Total Costs

(In Millions)

24,596 x 1.5 x \$200 x 77% = \$5.7

Notes:

(1) 2008 Probation Report prepared by the Division of State Court Administration

(2) Source: Steven Ross, PsyD, HSPP

Initial costs for counties could be high to administer these tests, but future costs could be lower because adult felons have a generally high recidivism rate. The Indiana State Police report that DNA tests for offenders who have been convicted of felonies have slightly declined because many of the persons convicted have DNA samples already in the system due to prior convictions. *Background* – Upon entering a conviction, the court sets a date for sentencing within 30 days. The court can extend the date if good cause is shown (IC 35-38-1-2(b)). A defendant convicted of a felony may not be sentenced before a written presentence report is prepared by a probation officer and considered by the sentencing court (IC 35-38-1-8).

ICCMHC Priority: 3

Bill Status: Second Reading

SB 149

Department of Child Services

Authors: Lawson C

Synopsis: Removes the department of child services (DCS) from the entities to which a clerk of the court must forward a petition for adoption. Removes language regarding a child protection team being required to provide diagnostic and prognostic services for DCS or a juvenile court. Specifies how a child's death or near fatality may be determined to have been the result of abuse, abandonment, or neglect for purposes of certain records. Removes certain duties of the office of the secretary of family and social services regarding child welfare. Adds additional information required in a petition for the appointment of a guardian for an incapacitated person or minor. Requires DCS to be notified of certain guardianship petitions and to be allowed to participate in a hearing on certain guardianship petitions. Permits a court to add conditions for a parent to terminate or modify a guardianship. Requires a court to notify DCS if certain petitions to terminate or modify a guardianship are filed. Removes the requirement that certain guardianship petitions be sent to the prosecuting attorney. Allows a juvenile court to request a probate court that retains jurisdiction over a guardianship to conduct additional proceedings. Provides that DCS may petition a court if a parent, guardian, or custodian refuses to allow a child to be interviewed. Prohibits the state police department from charging a fee for: (1) fingerprinting expenses related to criminal history checks conducted by the department; and (2) certain limited criminal history background checks conducted by the department. Requires juvenile courts or the department to pay the Federal Bureau of Investigation for costs of certain fingerprinting. Provides that if a juvenile court issues an order: (1) establishing or modifying a guardianship; (2) modifying child custody or visitation; or (3) creating or modifying the establishment of paternity; the court in which the original action was filed, or an appropriate court, shall assume primary jurisdiction and shall conduct additional proceedings. Makes a technical correction.

Fiscal Impact: Summary of Net Fiscal Impact: This bill is expected to decrease revenue to the State Police by \$179,000 per year (which would have been deposited into the state General Fund), but would be offset by a corresponding decrease in Department of Child Services expenditures (which would be from state General Fund

appropriations). **Explanation of State Expenditures:** *Criminal History Background Checks:* The bill prohibits the Indiana State Police (ISP) from charging the DCS state fees associated with a national criminal history background check if the request is made as part of the background investigation for out-of-home placement provider applicants. DCS currently pays \$39 per criminal history background check performed by ISP. This fee is made up of a vendor fee, a portion forwarded to the federal government, and a portion that is deposited into the state General Fund (\$15). A national criminal history background check refers to the criminal history record system maintained by the Federal Bureau of Investigation (FBI) based on fingerprint identification or any other method of positive identification. A fee would still be required to process a national criminal history background check by the vendor and the FBI. It is assumed that in order to complete the criminal history background checks, DCS will continue to bear the federal and vendor costs of completing the background checks (\$24 per request). This bill will exempt DCS from the state fees (\$15) and will decrease DCS expenditures by approximately \$179,000 per year. DCS is funded through General Fund appropriations. DCS currently does not pay the fees to process national criminal history background checks for pre-adoptive parents. DCS reports that during FY 2009, approximately 11,900 national criminal history background checks were requested. Of these requests, the number of background checks that were requested for only out-of-home placements is unknown. *DCS Supervised Visitation:* Under the bill, DCS may be required to provide supervised visitation in domestic violence cases where a court rules such supervision should be provided by the Department. This provision will increase the workload of DCS; however, increases can be covered within existing staffing and resources, assuming near customary agency staffing and resource levels. *Family and Social Services Administration:* Under the bill, records held by agencies in FSSA would no longer be accessible in determining if a child's death or near death were the result of abuse, neglect, or abandonment. This will decrease the workload of FSSA to the extent FSSA previously provided these records; however, decreases are expected to be minimal. **Explanation of State Revenues:** *Criminal History Background Checks:* ISP currently charges DCS \$39 for a national criminal history background check, of which \$15 is deposited in the state General Fund. DCS requested a total of 11,900 national criminal history background checks in FY 2009 that, under the bill, an unidentifiable portion would be fee-exempt. Assuming this bill is to have no effect on the number of national criminal history background checks requested by DCS, revenue to the General Fund is estimated to decrease by a maximum of approximately \$179,000 per year. *Court Fee Revenue:* The bill makes changes to family court provisions contained in statute. To the extent this bill changes the number of court cases heard in family court, state revenue from civil fees may change. Any change in the number of family court cases is indeterminable. If additional civil actions occur and court fees are collected, revenue to the state General Fund may increase. A civil costs fee of \$100 would be assessed when a civil case is filed, 70% of which would be deposited in the state General Fund if the case is filed in a court of record or 55% if the case is filed in a city or town court. In addition, some or all of the document storage fee (\$2), automated record keeping fee (\$7), judicial salaries fee (\$18), public defense administration fee (\$3), court administration fee (\$5), and the judicial insurance adjustment fee (\$1) are deposited into the state General Fund. Additional fees may be collected at the discretion of the judge and depending upon the particular type of case. **Explanation of Local Expenditures:** The following may *increase* court workload: (1) Requiring courts to notify DCS if a child in need of services (CHINS) case is filed or a program of informal adjustment is pending that involves an alleged incapacitated person or minor, (2) there are more court hearings for terminations and modifications of guardianship cases as a result of changes in guardianship conditions, (3) requiring courts to notify DCS of actions concerning guardianships, and (4) DCS ability to petition the court if parents, guardians, or custodians refuse to allow the Department to interview a child. The following may *decrease* court workload: (1) Removing provisions that require the court clerk to notify DCS if an adoption petition is found to be in proper form, (2) clarifying court jurisdiction for modifying (a) the establishment of paternity, (b) child custody, (c) child visitation, and (d) guardianship if there are fewer court filings in courts that do not have appropriate jurisdiction, (3) removing language that requires the probate court to send notifications to prosecuting attorneys under guardianship proceedings, and (4) removing language that requires a local juvenile court to determine if certain allegations, if proven, may have caused the death or near death of a child as the result of abuse, neglect, or abandonment. The following provisions may also decrease the workload of: (1) The local community child protection team established in each county by removing language that requires the team to provide diagnostic services and prognostic services for DCS or the juvenile court, and (2) the prosecuting attorney by removing language that would allow the prosecuting attorney to file certain information alleging a child's death or near fatality to be the result of abuse, abandonment, or neglect. **Explanation of Local Revenues:** *Court Fee Revenue:* If additional civil actions occur, local governments would receive revenue from the following sources. The

county general fund would receive 27% of the \$100 civil costs fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund. Additional fees may be collected at the discretion of the judge and depending upon the particular type of case.

ICCMHC Priority: 3

Bill Status: Second Reading

SB 163

Various Child Support Matters

Authors: Bray

Synopsis: Requires persons who own or operate a river boat licensed as a gambling operation or a horse racetrack licensed for gambling games to: (1) withhold cash winnings of obligors for amounts the obligors are delinquent in child support; and (2) deduct and retain an administrative fee in relation to withholding the obligor's delinquent child support. Requires the: (1) gaming commission to place on probationary status, suspend, and deny licenses for gambling games at horse racetracks; and (2) the alcohol and tobacco commission to place on probationary status, suspend, and deny employee's permits; of certain obligors who are delinquent in child support. Provides that a person whose driving license is suspended because of delinquent child support is not required to pay a reinstatement fee to have the person's driving license reinstated. Provides that the child support bureau (bureau) and certain contractors of the bureau have access to information in certain state systems and in certain records of state agencies and other entities. Requires a court to immediately withhold income under a child support order established in any proceeding. Provides that a recipient or applicant of the Temporary Assistance for Needy Families program who refuses to cooperate in: (1) a paternity action; or (2) the establishment or enforcement of a child support order; is subject to sanctions or revocation or suspension of assistance. Requires a guardian or custodian of a child to cooperate with the bureau and certain other agencies regarding certain paternity and child support matters. Requires a custodial parent and noncustodial parent to provide certain information to the clerk of the court. Provides that a court may consider a child emancipated if the child is on active duty in the United States armed forces. (Current law provides that a court may consider a child emancipated if the child has joined the United States armed forces). Provides that the income withholding provisions apply to any proceeding in which child support is established. Requires an employer to transfer the National Medical Support Notice to the employer's health insurance plan within 20 days after the date of the National Medical Support Notice. Requires an income withholding order form to contain certain information. Provides that an income payor may not distribute income in a manner that would result in one of the current child support obligations not being honored. Provides that an income payor is not required to vary the income payor's normal pay and distribution cycles in order to comply with the income withholding provisions. Requires that a court or administrative agency deem due process met if certain requirements have been met. Provides that various persons are immune from civil and criminal liability for certain acts or for failures to act.

Fiscal Impact: *Summary:* This bill is expected to increase the workload of the Indiana Gaming Commission, the Indiana Alcohol and Tobacco Commission, the Child Support Bureau (CSB), and possibly other state agencies to provide information to the CSB and the local prosecuting attorney to track child support delinquents. Additionally, the bill may either result in a decrease in TANF expenditures or a diversion of resources to other benefit applicants. *Additional Information: Indiana Gaming Commission and Indiana Alcohol and Tobacco Commission:* This bill may increase the workload of the two commissions to ensure (1) certain licensees and racino permit holders and trustees meet child support obligations and (2) casinos and racinos withhold the gaming winnings of child support delinquents. *Child Support Bureau:* The CSB would be required to provide information to the Indiana Gaming Commission, the Indiana Alcohol and Tobacco Commission, casinos, and racinos in order to identify child support delinquents. Currently, the CSB does not provide information concerning child support delinquents to these entities. *Information Requests:* Under the bill, the Criminal Justice Data Division, the Indiana State Department of Health, the Department of State Revenue, the Indiana Professional Licensing Board, Indiana Department of Corrections, Indiana Economic Development Corporation, and the Family and Social Services Administration,

among others may experience increases in workload to the extent this bill increases information requests made by either the CSB or the local prosecuting attorney to locate child support delinquents. Increases in workload are indeterminable. *TANF*: Under the bill, some individuals that receive TANF may suffer either (a) sanctions, (b) suspension, or (c) revocation of TANF benefits for failing to cooperate in a paternity action or establishment of child support order. If there is an increase in either (1) the number of individuals who have TANF benefits suspended or revoked, or (2) a decrease in the amount of TANF benefits administered, to noncompliant recipients, state expenditures for TANF benefits may not necessarily decrease if resources are diverted to other TANF applicants. *Indiana Support Enforcement Tracking System (ISETS)*: The bill also changes what information (1) must be maintained in the ISETS and (2) is provided on income withholding forms provided to employers. The information required is already maintained in ISETS and on income withholding forms and would result in no fiscal impact. **Explanation of State Revenues: Summary**: This bill has several provisions that may increase state collections of unpaid child support. To the extent this is accomplished, Indiana may become more competitive with other states for federal IV-D incentive funds. This bill also exempts individuals that have their driver's license suspended due to unpaid child support from paying reinstatement fees. This provision is expected to have no fiscal impact as this reinstatement fee is currently not collected. *Additional Information: Professional Licensing/Permits*: This bill establishes procedures to collect unpaid child support from the permit holder/trustee of a racino, and employees permitted to work as either a bartender, waiter, waitress, or manager at a retail establishment. This bill may increase child support collections in the state by increasing the number of individuals who pay child support in order to avoid having either their professional license or permit suspended or revoked. *Immediate Withholding of Earnings*: Under the bill, courts would be required to immediately withhold the income of individuals after any proceeding (including dissolution of marriage and paternity determinations). This may increase the number of income withholdings in the state. *Emancipation through Active Duty*: By changing statute regarding emancipation for military service, more individuals would be required to pay child support. Currently, a child under the age of 21 is considered emancipated, and no longer due child support, if he or she enlists in the armed forces. The bill changes emancipation to when a child is on active duty. This will increase child support payments in the state for those individuals who are less than 21 years of age, enlisted in the armed services, but are not on active duty (most notably members of the National Guard or another reserve component of the armed forces). *Casino and Racino Sanctions*: Casino and racino owners, operating agents, and trustees that fail to withhold the winnings of child support delinquents are subject to sanctions and penalties established by the Indiana Gaming Commission. This may increase state revenue to the extent these sanctions and penalties are exercised against offenders. Increases in state revenue are indeterminable, but expected to be small. *Intercepting Casino and Racino Winnings*: The bill requires the (1) licensed owner of a casino, (2) operating agent/trustee of a casino, and (3) permit holder/trustee of a racino to collect unpaid child support from gambling winnings. This will increase state collections of unpaid child support to the extent individuals who owe child support are due gambling winnings. (Revised) *Disclaimer of an Interest in Property*: This bill will prohibit individuals from disclaiming an interest in property (i.e., inheritance) up to the amount of an individual's owed child support. Any increase in child support collections is expected to be minimal. *Driver's License Reinstatement*: Under the bill, individuals who have their driver's licenses reinstated would not be subject to the fees listed in IC 9-29-10-1 for license reinstatement. DCS reports this will not decrease state revenue as the reinstatement fee for driver's licenses suspended or revoked due to unpaid child support has not been collected. *Background Information*: The current reinstatement fees provided under IC 9-29-10-1 are; (1) \$150 for the first suspension, (2) \$225 for a second suspension, (3) and \$300 for a third or subsequent suspension. All except \$30 of the reinstatement fee is deposited into the Financial Responsibility Compliance Verification Fund established by IC 9-25-9-7. The remaining \$30 is deposited into the Motor Vehicle Highway Account. For FY 2009, the balance of the Financial Responsibility Compliance Verification Fund was approximately \$152,000. The Bureau of Motor Vehicles (BMV) reports there were 1,282 license suspensions/revocations that were reinstated in 2009 and 1,027 in 2008. Of these, it is unknown how many may have paid a reinstatement fee (if any) and how many suspensions each individual has. The federal IV-D program consists of a static amount of performance-based grants awarded to states (on a competitive basis) depending on performance regarding specified metrics. These metrics include: (1) paternity-establishment performance level, (2) support order enforcement performance level, (3) current payment performance level, (4) arrearage performance level, and (5) cost-effectiveness performance level. Indiana's most recent performance rankings under the IV-D funding metrics for FFY 2008 are as follows: (1) 20 in paternity establishment, (2) 41 in support order establishment, th st (3) 41st in current support collections, (4) 25th in cases paying on arrears, and (5) 14th in cost effectiveness. The first three metrics have more weight than

the last two metrics when calculating the IV-D funding a state receives. In FFY 2007, Indiana received \$9,125,000 in IV-D funding, which was an increase from FFY 2006 (\$8,190,000). **Explanation of Local Expenditures:** This bill will increase the workload of local law enforcement and county jails to the extent this bill increases information requests made by either the CSB or the local prosecuting attorney to locate child support delinquents. Increases in workload are indeterminable. (Revised) The bill also adds responsibilities a court must complete in child support and paternity determination cases. Additionally, the bill does not allow a court to adjust custody or visitation rights of a noncustodial parent as a result of active duty service in the armed forces of the United States or National Guard. These provisions will impact court workload minimally. Additionally, this bill may also increase the number of requests for an administrative hearing held by the county IV-D prosecutor regarding the suspension/revocation of a license or permit of (1) a permit holder/trustee of a racino, and (2) an employee permitted to work as either a bartender, waiter, waitress, or manager at a retail establishment, that is suspended or revoked as a result of delinquent on child support payments. The bill would also require the county IV-D prosecutor to provide information on child support delinquents to the Indiana Gaming Commission.

ICCMHC Priority: 3

Bill Status: Third Reading

SB 175

Various Health Matters

Authors: Miller

Synopsis: Places a cap on the greater of \$50 per employee or \$2,000 per taxpayer on the small employer qualified wellness program tax credit. Allows the state department of health (state department) to set a fee for searching or copying a record in the division of vital records. Authorizes a physician last in attendance of a deceased to initiate the document process for the death record. Maintains current system for reporting of stillbirths after changes in the reporting of births and deaths are implemented. Allows the state department to charge food establishments for subsequent inspections that result from a failed inspection. Establishes the food establishment data base fund. Requires the state department to establish a lead-based paint poisoning prevention program concerning renovations performed for compensation in target housing and child-occupied facilities. Repeals superseded provision that sets the fees for searching and copying records in the division of vital records.

Fiscal Impact: *Small Employer Qualified Wellness Program Tax Credit:* The Department of State Revenue (DOR) will incur additional expenses to revise tax forms, instructions, and computer programs to reflect the changes to the tax credit proposed in the bill. The DOR's current level of resources should be sufficient to implement these changes. *Lead-based Paint Poisoning Prevention Program:* The bill requires the ISDH to adopt rules to establish a Lead-based Paint Poisoning Prevention Program concerning prerenovation education for contractors and workers performing renovation activities for pay in target housing and child-occupied facilities built before 1978. The program is established to ensure that renovators are properly trained by accredited training programs and that the contractors are certified to specified standards. The promulgation of rules is a routine administrative function of the ISDH that should be accomplished within the current level of resources available to the agency. [Information regarding the cost of enforcement provisions required by the bill will be added when available from the ISDH.] Provisions concerning the process for the submission of death records or the reporting of stillbirths have no fiscal impact. *Food Establishment Data Base Fund:* The bill establishes the nonreverting Food Establishment Data Base Fund for the implementation and administration of a food establishment data base. The fund is to be administered by the ISDH and consists of fee revenue collected by the state Retail Food Protection Division and any money appropriated to the fund. The bill does not provide for the expenditure of money in the fund. **Explanation of State Revenues:** *Small Employer Qualified Wellness Program Tax Credit:* The bill could potentially reduce the revenue loss from this tax credit by capping the credit at \$50 per employee employed by a taxpayer up to a maximum of \$5,000 per taxpayer. Based on the credit utilization in 2007 and 2008, 22.5% of credits claimed could be in excess of the proposed \$5,000 per taxpayer limit. Thus, if tax credit utilization remains at the 2008 level, the savings could total at least \$50,000 annually, with the savings increasing as credit utilization increases. The additional savings from the \$50 per employee limit is indeterminable based on the available data. *Food Establishment Inspection Fees:* The bill would allow the ISDH to establish a fee to be collected from a state-inspected retail food establishment for inspections that result from the food establishment's failure of an inspection. Any fee revenue

collected would be deposited in the Food Establishment Data Base Fund. [See *Explanation of State Expenditures* for a description of the fund.] The amount of revenue collected and deposited in the Food Establishment Data Base Fund would depend on the amount of the fee and the number of state-inspected food establishments that would fail an inspection requiring a subsequent follow-up inspection for which a fee would be charged. *Vital Records Fees:* The bill would authorize the ISDH to determine the fee structure for vital records searches and copies. The fees authorized by the ISDH may not exceed the cost of the services provided. Fee revenue would continue to be distributed to the General Fund. Revenue from vital records fees was \$672,893 and \$566,186 for FY 2008 and FY 2009, respectively. The impact of the bill on the level of fees collected would depend on administrative actions taken by the ISDH. *Background Information: Small Employer Qualified Wellness Program Tax Credit:* Current statute provides a nonrefundable tax credit to taxpayers employing 2 to 100 employees for expenses relating to providing an employee wellness program certified by the ISDH. The credit is equal to 50% of the taxpayer's wellness program expenditures during the taxable year. The bill imposes a dollar limit on the tax credit a taxpayer may claim equal to the greater of: (1) \$50 per employee employed by the taxpayer; or (2) \$2,000. This dollar limit would allow a maximum credit exceeding \$2,000 to taxpayers that employ 41 to 100 people, provided their annual qualified program expenditures exceed \$4,000. However, no tax credit under the bill could exceed \$5,000. The wellness program tax credit may be claimed by a taxpayer against the Individual Adjusted Gross Income (AGI) Tax liability, Corporate AGI Tax liability, Financial Institutions Tax liability, or the Insurance Premiums Tax liability. The tax credit applies to expenditures for employee wellness programs which at a minimum reward employees for appropriate weight loss, smoking cessation, and pursuit of preventative care services. The tax credit may be carried forward to succeeding taxable years, but may not be carried back. If the taxpayer is a pass through entity and does not have a tax liability, the credit may be claimed by shareholders, partners, or members of the pass through entity in proportion to their distributive income from the pass through entity. The tax credit started in 2007 when 83 individual taxpayers and 9 corporate taxpayers claimed \$102,312 in credits. In 2008, 169 individual taxpayers and 9 corporate taxpayers claimed \$207,567 in credits. In 2007, 7 taxpayers claimed credits in excess of \$5,000, with 11 taxpayers exceeding the limit proposed in the bill in 2008. Credits exceeding \$5,000 totaled \$18,260 in 2007 and \$46,739 in 2008. *Vital Records Fees:* The bill repeals the statutory vital records fees. The current search fee is \$8 dollars. If a record is found, one certification is furnished free of charge. A fee of \$4 is allowed for any additional certifications. To amend a record, there is a fee of \$8. *Food Establishment Inspection Fees:* The Retail Food Protection Division of the ISDH conducts inspections of food establishments located on state property, such as vendors located on the Toll Road, at the State Fairgrounds, or located in the Capitol complex. The Division also provides inspections of the food service operations of state and privately owned psychiatric hospitals that are certified by the Division of Mental Health and Addiction. Currently, the Division uses the tools of enforcement when necessary to bring food establishments with serious food safety problems into compliance with food regulations. The current enforcement process may include the levy of civil penalties. The state currently does not charge a fee for state-conducted inspections nor is there a state license requirement.

ICCMHC Priority: 3

Bill Status: Second Reading

SB 192 Hospital Visitation Rights for Domestic Partners Authors: Errington

Synopsis: Allows an individual who is in a domestic partnership with a patient to have hospital visitation rights.

Fiscal Impact: *As of the above date, the fiscal analysis of this bill has not been completed. Please contact the Office of Fiscal and Management Analysis for an update of this fiscal impact statement.*

ICCMHC Priority: 4

Bill Status: Dead

SB 254 Voluntary Audits By Health Facilities Authors: Mishler

Synopsis: Voluntary audits by health facilities. Provides that a voluntary health facility audit report is privileged and inadmissible as evidence in a civil or administrative action except in specified circumstances. States that a voluntary health facility audit report is admissible in a criminal proceeding.

Fiscal Impact: None

ICCMHC Priority: 2

Bill Status: Third Reading

SB 292

County Hospitals Operating Health Facilities

Authors: Waterman

Synopsis: Allows a county hospital to own, operate, or contract with a person to operate a health facility.

Fiscal Impact: This bill could potentially impact the amount of the Quality Assessment Fee (QAF) collected by the state from health facilities. The current statute requires that 80% of the QAF collected, must be used to leverage federal Medicaid matching funds to increase nursing facility reimbursement targeting specific uses. The remaining 20% of the estimated QAF must be used to offset Medicaid costs incurred by the state. Any reductions in the QAF collected, would also reduce the amount available to the state. If facilities with fewer than 70,000 total annual patient days are acquired by local government-owned entities, the amount of the QAF would be reduced 75% (from \$10 per non-Medicare patient day to \$2.50 per non-Medicare patient day) due solely to the changed ownership status. The fiscal impact would depend on the actions of local government-owned hospitals.

Background Information: Quality Assurance Fee: In the current model approved by CMS, the amount of the QAF is based on a nursing facility's total annual patient days. Quality assessments of \$10 per non-Medicare patient day are to be collected from nursing facilities with total annual patient days of less than 70,000 days. Facilities with annual patient days equal to or greater than 70,000 days will be assessed \$2.50 per non-Medicare day. Local government-owned nursing facilities will be assessed \$2.50 per non-Medicare patient day, as well. Nursing facilities that are continuing care retirement communities, hospital-based, or owned by the state are exempt from the QAF. **Explanation of Local Expenditures:** The fiscal impact of this provision would depend on actions taken by the individual county hospitals. **Explanation of Local Revenues:** The fiscal impact of this provision would depend on actions taken by the individual county hospitals. Under current law, counties may own nursing facilities.

Background Information: SEA 309-2001 required the Office of Medicaid Policy and Planning (OMPP) to file a Medicaid State Plan amendment to allow the state to make additional payments up to the Medicare Upper Payment Limit (UPL) to nonstate governmental nursing facilities in Indiana as permitted by federal regulations and subject to the availability of matching funds. At the time the State Plan amendment was filed, there were seven nonstate governmental nursing facilities in the state. The facilities supplied the state matching funds required through intergovernmental transfers. Health and Hospital Corporation of Marion County (HHC) was already operating a nursing facility and later acquired other facilities within Marion County for which the UPL could be claimed. In 2003, the General Assembly enacted P.L. 255, which contained a provision that allowed the HHC to extend the powers, authority, and duties of the corporation outside Marion County as authorized by the corporation's board of directors. This provision allowed the HHC to acquire additional nursing facilities for which the UPL could be claimed. According to the Indiana State Department of Health (ISDH) website, HHC owns 33 facilities statewide with over 4,000 Medicare/Medicaid certified beds.

ICCMHC Priority: 4

Bill Status: Second Reading

SB 294

Disproportionate Share Hospital Providers

Authors: Merritt

Synopsis: Requires disproportionate share payments to be distributed in a uniform and equitable manner. Makes changes to the distribution formulas for disproportionate share payments.

Fiscal Impact: The bill would require the Office of Medicaid Policy and Planning (OMPP) to amend the State Medicaid Plan to revise the distribution of funds within the DSH payment program, the Upper Payment Limit (UPL) program, and the Medicaid Safety Net program. Plan amendments should be considered routine administrative functions that may be accomplished within the current level of resources available to the agency. The bill removes a provision that makes a hospital ineligible for a payment unless an intergovernmental transfer or certification of expenditures is made to the Medicaid Indigent Care Trust Fund by or on behalf of the hospital. This could affect the amount of money available for distribution among the pool of eligible hospitals. The bill does not affect language that requires intergovernmental transfers to be used to fund the payments.

ICCMHC Priority: 1

Bill Status: Dead

SB 295

Family and Social Services

Authors: Miller

Synopsis: Authorizes the disclosure of a Social Security number for the administration of a state funded health plan. Specifies the notice procedures for the division of aging and the bureau of developmental disabilities services to follow against providers regulated by the division or the bureau. Authorizes the director of the division of aging and the bureau of developmental disabilities to issue certain notice orders against a provider that violates rules issued by the division for a program in which the provider is providing services. Requires a family to receive a cash assistance benefit of at least \$10 under the Temporary Assistance for Needy Families (TANF) program if certain income standards and employment earnings are met. Specifies that access to a child support enforcement program and IMPACT (JOBS) training program are included as TANF services for certain eligible families. Changes the time frame in which certain Medicaid notices or bulletins may become effective, from 45 days to 30 days, after issuance. Specifies that certain recreation programs for school age children may be exempt from licensure requirements. Removes language that specifies staffing requirements for the Evansville State Hospital and the Evansville State Psychiatric Treatment Center for Children. Requires the release of certain mental health care information in certain circumstances. Transfers administrative rules concerning aging to the division of aging. Repeals: (1) a provision that requires the adult protective services unit and the division of aging to destroy any records concerning a report concerning an endangered adult that is unsubstantiated; (2) a provision concerning the distribution of funds from the addiction services fund to certain programs; and (3) the definition of "case management". Makes technical changes.

Fiscal Impact: Summary: Under the bill, state TANF expenditures are expected to increase by approximately \$258,000 per year. Under the changes the Family and Social Services Administration (FSSA) plans for the Evansville Psychiatric Children's Center, state expenditures are expected to decrease by at least \$280,000 per year. The expected net fiscal impact from these two provisions is a \$22,000 decrease in state expenditures per year. Additionally, by changing the definition of "continuum of care", state expenditures may change to the extent (1) previously covered services are not included or (2) additional services are included, in a revised definition made by FSSA. Any change in expenditures depends on the decisions of FSSA administrators. The bill also contains provisions which will increase the workload of FSSA. According to FSSA, these provisions can be absorbed using existing staff and resources. *Additional Information: Temporary Assistance for Needy Families Benefits:* This bill will provide an additional \$10 per month payment to a recipient family under the TANF program if: (1) the family's income is greater than the established standard of need, (2) the family's gross income is less than 100% of the federal income poverty level, and (3) a parent or essential person receiving assistance has employment earnings. According to FSSA, there was a monthly average of 2,154 employed \$0 TANF recipients between December of 2008 and November of 2009. These individuals would be eligible for the additional \$10 a month benefit provided under the bill for the remainder of their TANF eligibility. This bill will increase annual state expenditures by a maximum of \$258,000 if all working TANF recipients were to receive an additional \$10 a month payment. This provision may not require an additional appropriation if FSSA administrators elect to reallocate resources from other programs to cover the benefit increase. However this could potentially affect reversions. *Medicaid Rehabilitation Option:* This bill changes the definition of "case management" under community care for individuals with mental illnesses. FSSA reports this change will have no fiscal impact and is intended to maintain compliance

with federal regulation changes in the Medicaid program. *Evansville State Hospital and Evansville State Psychiatric Treatment Center for Children*: The bill removes provisions that require the Division of Mental Health and Addiction (DMHA) to (1) not terminate patient care, (2) not reduce staffing levels and classifications, (3) not terminate employees, (4) fill employee vacancies created by terminations, (5) not remove, transfer, or discharge any patient in the facility under defined conditions, (6) maintain the Evansville State Psychiatric Treatment Center for Children as autonomous of both the Evansville State Hospital and the Southwester Indiana Community Mental Health Center, and (7) maintain the Evansville State Psychiatric Treatment Center for Children as autonomous unless specified by the General Assembly. FSSA reports that by removing this language, they plan to reduce staffing by seven full-time positions and combine functions of the two facilities. This would represent cost savings of approximately \$280,000 in staffing salary per year and unknown, but additional, cost savings by combining functions between the two facilities. *Day Care Licensure*: The bill adds a provision that a recreation program that operates for a maximum of 90 days per calendar year is only exempt from licensure requirements if the children provided for are of school age. The number of day care centers that would require licensure under the change is indeterminable, but is expected to increase. FSSA reports they currently have enough staff and resources to provide licensure inspections to any increase in day care licensure applications. *Destroying Records*: The bill removes provisions that require the Division of Aging to destroy unsubstantiated endangered adult report records. This will decrease the work of the Division of Aging minimally. *Release of Social Security Number*: This bill would allow FSSA to disclose the Social Security Number of individuals for the purpose of the administration of a state-funded health plan. FSSA reports this provision will increase workload minimally. *Continuum of Care*: The bill changes the definition of the continuum of care and allows FSSA to use rule promulgation to define it for the purposes of mental health treatment. Increases in workload are expected to be minimal. *Orders for Violating Providers*: Under the bill, the directors of the Division of Aging (DOA) and Division of Disability and Rehabilitative Services (DDRS) would be allowed to issue orders against providers that violate rules created by either division for the administration of programs. This will increase the workload of the DOA and DDRS to provide these orders; however, the increase can be covered under current resource levels. *Destroying of Reports*: This bill repeals statute that requires FSSA to destroy unsubstantiated endangered adult reports. This provision may decrease the workload of FSSA staff to destroy these reports, but may increase expenditures to maintain additional files. Changes in workload and expenditures are unknown, but expected to be minimal. **Explanation of State Revenues:** *Summary*: This bill repeals provisions that designate (1) state revenue collected from gaming and alcohol sales and (2) federal funds received from the Substance Abuse Treatment and Prevention grant, for local programs. The total amount of revenue that will no longer be designated for local use is \$10.7 M per year. Additionally, the bill may decrease state revenue from Class C infractions by repealing references to illegal activity concerning unsubstantiated endangered adult reports. Decreases in revenue are expected to be minimal. *Additional Information: Removing Statute Concerning Local Earmarks of Gaming, Alcohol, and Federal Funds*: This bill repeals language that requires the DMHA to allocate 33% of the revenue from (1) the Riverboat Admission Tax, (2) excise taxes collected on alcoholic beverages, and (3) federal money earmarked for Drug Abuse and Alcohol Abuse/Alcoholics Efforts to (a) local programs that provide prevention, intervention, and treatment services to the psychologically or physiologically dependent on alcohol/drugs or gambling and (b) treatment programs that are not under the direction of either a community mental health center or a state institution. These provisions will not increase state revenue, but may increase revenue that is available for state use. FSSA reports approximately \$25 M was received in SFY 2010 from the federal government for drug abuse and alcohol abuse programs, of which \$8.25 M was designated to be provided to local programs. For FY 2009, approximately \$3.25 M in revenue was provided to the Addiction Services Fund from the alcohol excise tax, of which \$1.08 M would have been forwarded to local programs. Additionally, in FY 2009, a total of \$4.12 M was provided to DMHA from the Riverboat Admission Tax, of which \$1.37 M would have been forwarded to local programs. The total amount of revenue that will no longer be designated for local use is \$10.7 M per year. *Endangered Adult Reports*: Currently, if an individual unlawfully discloses information in an unsubstantiated endangered adult report, the act is a Class C infraction. The bill removes endangered adult reports from the list of these offenses. The number of Class C infractions in the state may decrease as a result. The maximum judgment for a Class C infraction is \$500, which would be deposited in the state General Fund. However, any decrease in revenue is likely to be small. **Explanation of Local Expenditures:** **Explanation of Local Revenues:** *Removing Statute Concerning Local Earmarks of Gaming, Alcohol, and Federal Funds*: FSSA reports the changes in this bill will not decrease revenue that is forwarded to the local level, but the change would allow more flexibility to redistribute funds to maintain state coverage.

Endangered Adult Reports: If there is a decrease in the number of court actions filed and judgments entered, local governments would receive less revenue from court fees. However, any decrease in revenue is likely to be small.

ICCMHC Priority: 1

Bill Status: Second Reading

SB 298

State Administration

Authors: Kenley

Synopsis: Establishes the Indiana public retirement system (system) to administer and manage: (1) the public employees' retirement fund (PERF); (2) the teachers' retirement fund (TRF); (3) the judges' retirement fund; (4) the prosecuting attorneys retirement fund; (5) the state excise police, gaming agent, gaming control officer, and conservation enforcement officers' retirement fund; (6) the 1977 police officers' and firefighters' pension and disability fund; (7) the legislators' retirement system; (8) the pension relief fund; (9) the special death benefit fund; and (10) the state employees' death benefit fund. Creates an 11 member board of trustees for the system (board) consisting of ten members appointed by the governor and the director of the budget agency (or designee) serving as an ex officio voting member. Requires a trustee to complete annually at least 12 hours of trustee education. Provides that the board's powers and duties are the combined powers and duties of the PERF and TRF boards. Provides that each retirement fund continues as a separate fund managed by the board. Provides for a director of the system who is appointed by and serves at the pleasure of the board. Requires the director to employ managers for PERF and TRF. Allows the director to employ managers for one or more of the other public retirement funds of the system. Repeals provisions that establish the PERF and TRF boards. Abolishes the Indiana tobacco use prevention and cessation executive board (executive board) on July 1, 2010, and transfers all assets, obligations, powers, duties, and appropriations of the executive board to the state department of health. Repeals statutes governing the executive board. **Removes the provision prohibiting the Evansville State Psychiatric Treatment Center for Children from being independent of the Evansville State Hospital and the Southwestern Indiana community mental health center. Removes the provision prohibiting the Evansville State Psychiatric Treatment Center and the Evansville State Hospital from reducing staffing levels below those in effect on January 1, 2002.** Removes the prohibition on the department of natural resources selling nursery stock or wildflower seeds to an individual who resides in a state other than Indiana, and removes the requirement that the nursery stock or wildflower seeds must be planted in Indiana.

Fiscal Impact: *Indiana Public Retirement System:* The total impact of this proposal on the PERF and TRF pension funds will depend on complete implementation and the extent to which economies are achieved, both in lowering administrative and investment costs, along with generating higher investment returns. A consulting firm retained by PERF and TRF estimated a one-time administrative cost savings of \$8.9 M and recurring annual savings of \$1.4 M with combining the administration of the funds. PERF and TRF have also estimated an additional annual savings of \$100,000 for lower employer administrative costs. The bill also eliminates one Executive Director Position and reduces the number of overall trustees.

Background Information:

FY 2009 Expenses PERF TRF

Administrative \$26.06 M \$8.07M

Investment \$63.77 M \$31.87 M

Total \$89.83 M \$39.94 M

Evansville State Psychiatric Treatment Center for Children and Evansville State Hospital: The Family and Social Services Administration (FSSA) reports that by removing language governing the administration of the Evansville State Psychiatric Treatment Center for Children, they plan to reduce staffing by seven fulltime positions and combine functions of the two facilities. This would represent cost savings of approximately \$280,000 in staffing salary per year and unknown, but additional, cost savings by combining functions between the two facilities.

Indiana Tobacco Prevention and Cessation Executive Board: Under the bill, the Indiana Tobacco Prevention and Cessation Executive Board is to be abolished and the program is to be administered by the Indiana State

Department of Health (ISDH). This will increase the workload of the ISDH to fulfill the responsibilities the Executive Board formerly fulfilled. This provision may also decrease state expenditures. During FY 2009, the Executive Board experienced \$1.1 M in administrative expenses, of which approximately \$988,000 was expended on the salary and fringe benefits of 14 staff members. These expenses were financed from Tobacco Master Settlement funds, of which \$10.9 M was appropriated to the Executive Board during the biennium. To the extent ISDH can fulfill the responsibilities of the Executive Board with currently existing staff or more efficiently than the Executive Board, administrative expenditures may decrease. Decreases will depend on the decisions of ISDH administrators.

Explanation of State Revenues: *Indiana Public Retirement System:* The pooling of assets also could generate higher investment returns and lower investment costs for the pension funds. PERF and TRF estimate that the pooling of assets could generate an increase of 0.2% in investment return. As of November 30, 2009, PERF net assets amounted to \$14.2 B, and TRF net assets were \$8.1 B. Combined net assets totaled \$22.3 B. The 0.2% increase in investment return is the equivalent to approximately \$44.6 M in incremental annual investment returns. *Selling Nursery Stock and Wildflower Seeds.* Current statute prohibits the Department of Natural Resources (DNR) from selling nursery stock and wildflower seeds to retailers or wholesalers and out-of-state residents. The DNR does not currently sell wildflower seeds. The DNR does sell trees. In order to sell trees to Indiana residents, the DNR must charge the cost of production, which, for 2009, was \$0.32 per tree. The seedlings must be used for conservation plantings and cannot be resold. This provision would allow the DNR to sell trees to out-of-state residents. The DNR receives requests for around 400,000 trees per year from nonresidents. If the DNR continued to receive 400,000 out-of-state requests, the sale of trees to out-of-state residents would generate \$128,000 per year. Revenue from the sale of trees would be deposited in the Forestry account, which is used to fund the operations of the DNR Division of Forestry. **Explanation of Local Expenditures:** The bill may also provide some administrative efficiencies to local employers.

ICCMHC Priority: 2

Bill Status: Third Reading

SB 319

Health Care Choice

Authors: Schneider, Kruse, Stutzman, Charbonneau

Synopsis: Health care choice. Declares state sovereignty with respect to health care choice under the Constitution of the United States, federal law, and the Constitution of the State of Indiana. Specifies requirements for health care providers and the attorney general to ensure sovereignty.

Fiscal Impact: *Indiana State Department of Health (ISDH):* The bill would require health care providers to annually file an electronic or paper form with the ISDH attesting that the health care provider's business is wholly located in Indiana. Health care providers are defined as providers of: (1) medical care; (2) dental care; (3) mental health services and counseling; (4) treatment services or products, including manufacturers or distributors; (5) laboratory or diagnostic services or equipment, including manufacturers or distributors; (6) medicine; (7) materials and products; (8) hospital services; (9) long- or short-term health facility or institution services; (10) pharmaceuticals and pharmaceutical services, including manufacturers and distributors; and (11) private health insurance. The ISDH would need to develop or approve and distribute an electronic or paper form. The cost of collection of the forms would depend on the extent to which the ISDH could rely on electronic submission. The cost associated with developing the specified reporting system is not known at this time. The bill would require the ISDH to develop or approve and distribute an electronic or paper form that informs a patient of the choice to opt out of having the patient's patient information included in a federal government or other data base. The form is to be provided to each patient of a health care provider to be signed and dated by the patient and maintained by the health care provider in the patient's record. Development or approval of the form should be accomplished within the current level of resources available to the ISDH. The cost of the distribution of the forms would depend on the extent to which electronic formats are used and the number of paper copies that would be necessary. The bill provides that all forms and records prescribed by the bill are subject to inspection or audit; it does not specify an audit authority. It is not clear how the ability of an individual to opt out of participation in a federal government data base or other data bases would impact the ISDH Children and Hoosiers Immunization Registry Program (CHIRP) and other public health information data bases. State-operated mental health facilities and the Indiana Veteran's Home would be

impacted by the record keeping requirements in the bill. It is not clear if the record keeping requirements would impact the ISDH laboratories and state correctional facilities. *Attorney General (AG)*: The bill requires the Attorney General to provide for the legal defense of the provisions of the bill and for the legal defense of health care providers and residents of Indiana from actions of the federal government, agencies of the federal government, and other legal and regulatory actions. The bill also requires the AG to seek out and encourage other states and parties that may wish to participate in a common legal defense and action. The cost of this provision would depend on actions ultimately taken by the federal government. **Explanation of Local Expenditures**: The record keeping requirements would apply to local government owned hospitals and health facilities, and potentially to school corporations and clinics operated by local health departments.

ICCMHC Priority: 3

Bill Status: Dead

SB 326 **Out of Network Health Provider Payments** **Authors: Gard, Kruse, Miller**

Synopsis: Out of network health provider payments. Specifies requirements concerning health benefit payments to providers that have not entered into payment agreements with health carriers.

Fiscal Impact: This bill could have an impact on expenditures if an insurer or health maintenance organization (HMO) experiences an increase in administrative costs associated with the provisions and the insurer or HMO passes the costs on to the state or local government. The specific impact is indeterminable.

ICCMHC Priority: 3

Bill Status: Dead

SB 356 **Professional Licensing** **Authors: Delph**

Synopsis: Professional licensing. Establishes procedures for the attorney general to seize, secure, store, and destroy abandoned or at risk health records and other records containing personally identifying information. Creates a health records and personal information protection trust fund to pay for costs associated with securing and maintaining the records. Allows a criminal history check for employees of home health agencies and personal services agencies to be provided through a private agency. Removes the July 1, 2010, expiration that allows limited criminal histories to be used for employees of home health agencies and personal services agencies. Establishes a uniform procedure to allow a board of a regulated occupation to issue a cease and desist order to an unlicensed person who engages in an activity that requires a license. Repeals and makes conforming changes concerning cease and desist and injunction orders. Merges and changes membership on the following boards: (1) cosmetology and barber boards; (2) land surveyor and professional engineer boards; (3) hearing aid dealer committee and speech-language pathology and audiology board; (4) home inspector board and real estate commission. Relocates barber statutes. Establishes a mental health counselor associate license. Eliminates the controlled substances advisory committee and transfers responsibilities to the Indiana board of pharmacy. Provides for automatic revocation of controlled substances permit if a physician's license is revoked. (Current law requires a separate administrative process to take place if physician's license is revoked.) Requires the Indiana scheduled prescription electronic collection and tracking program's (INSPECT) data base to include information on a controlled substance recipient's method of payment for the controlled substance dispensed. Allows INSPECT information to be released to the state toxicologist and the Medicaid retrospective and prospective drug utilization review program. Provides civil immunity for a practitioner who in good faith provides information to a law enforcement agency based on a report from INSPECT. Requires the board of pharmacy to establish prescribing norms and dispensing guidelines for the unsolicited dissemination of INSPECT exception reports to certain persons. Repeals laws concerning the certification of environmental health specialists and licensure of hypnotists. Makes conforming changes.

Fiscal Impact:

Mental Health Counselor Associate License- Given that the PLA currently processes mental health counselor licenses, it is likely that this provision would not require more than a negligible increase in expenditures to carry out. The main cost would likely be the development of an exam, if a standard exam is not adopted by the Behavioral Health Board.

Attorney General and Health Records- This provision would set up the Health Records and Personal Information Protection Trust Fund (HRPIPTF) to fund the AG's expenditures to carry out health record seizure, storage, and maintenance as required under the bill. Revenue would come from a \$5 civil penalty to be assessed along with every disciplinary order imposed on a person by a professional board. The amount of revenue this provision could generate in a given year is indeterminable and would depend on the number of disciplinary orders handed down by professional boards in the future. However, the HRPIPTF would be capped at \$75,000. If the HRPIPTF exceeded \$75,000, the \$5 civil penalty imposition would cease until the fund balance went below \$75,000. The AG would administer the HRPIPTF. Revenue in the HRPIPTF would not revert to the state General Fund at the end of a state fiscal year. *Home Health Agency Criminal Checks-* This provision would result in continued revenue receipts from limited criminal history background requests for employees who have lived in the state for more than two years. Depending on the method used to request a limited criminal history background check, revenue to the IOT Portal Fund and the General Fund may increase. For every limited criminal history background check requested, \$7 is forwarded to the General Fund. If a limited criminal history background check is requested online using Access Indiana, either \$8 or \$9.32 (depending if the requestor is an Access Indiana member or not) is deposited in the IOT Portal Fund. The provision may also result in decreases in state revenue to the extent employees who have lived in the state for less than two years elect to request an expanded criminal history background check rather than a national criminal history background check. For every national criminal history background check performed in the state, \$15 is forwarded to the General Fund. Decreases in state revenue will ultimately depend on (1) any price difference between an expanded criminal history background check and a national criminal history background check and (2) if one method to request criminal history information is more accessible than another. It is assumed that if one type of criminal history background check is less expensive than another, the cheapest alternative will be selected by the requestor. Additionally, if one method to request criminal history information is easier to access, or requires less time than another, it was assumed that a more accessible method may also be preferred to the other. Any impact these factors may have on requests for national criminal history information and state revenue is indeterminable.

ICCMHC Priority: 2

Bill Status: Second Reading

SB 373

Health Facility Third Party Dispute Resolution

Authors: Gard, Kruse

Synopsis: Health facility third party dispute resolution. Establishes a third party dispute resolution process that a health facility may use to appeal a deficiency finding in the health facility's state department of health (state department) survey report. Requires the state department to contract with an independent third party to conduct the third party dispute resolution process. Requires the state department and the independent third party to collect and report specified statistical data to the select joint commission on Medicaid oversight and long term care trade associations.

Fiscal Impact: This bill would require the ISDH to contract for a third-party dispute resolution process and pay the expenses of the contract from the Civil Money Penalty (CMP) Fund. This process would be in addition to the existing state-operated informal dispute resolution (IDR) process. IDR findings made by a third party are recommendations only to the state agency; ISDH is required by CMS to review the findings and may accept or overturn the findings of an independent review. Additional cost would depend on the number of IDRs and the number of deficiencies that would be requested to be reviewed by the third-party reviewer, as well as the location of the IDR process. If a facility requests an on-site IDR as provided for in the bill, costs to the ISDH as well as to the

contractor would be increased. If all facilities requested third-party reviews, cost could be incurred in a range of \$576,000 - \$864,000. The bill provides that the costs are to be paid from the Civil Money Penalty Fund. This is a federally regulated state account that is not available for routine administrative purposes. If the ISDH uses CMP funds for an unapproved use, it would be required to reimburse the funds with state dollars. *Background: Informal Dispute Resolution Process-* The ISDH currently has two IDR processes. One process is an informal review by ISDH survey supervisors that may be an in-person review or a paper review. ISDH reported that there were approximately 144 surveys reviewed by this process in CY 2009. The second process is an independent review conducted by a Michigan company, MPRO. A facility may request a review by MPRO, but must bear the cost of the review. There was 1 survey reviewed by MPRO in 2009. ISDH estimated that the MPRO IDR costs \$2,000-\$3,000 per deficiency reviewed. (A survey may cite multiple deficiencies.) There were 511 comprehensive care facilities and 105 freestanding residential care facilities in Indiana at the end of CY 2009. ISDH reported that during CY 2009, the results of IDRs conducted by the state included 39.9% of the deficiencies reviewed resulting in some sort of a change and 22.8% of the cited deficiencies were deleted. If all IDRs were requested to be performed under a third-party contract and included two deficiencies each, the annual contract cost could be expected to approach \$576,000 - \$864,000. The cost would be higher if a facility requests an on-site IDR, which the bill requires if it is requested. This provision would result in higher costs to the independent reviewer as well as the ISDH due to the travel costs. Costs would depend on the number of facilities that would request an on-site IDR. *Background: Civil Money Penalty Fund-* The bill provides that expenses of the voluntary third-party dispute resolution process are to be paid from the nonreverting CMP Fund administered by the ISDH. If ISDH uses the CMP Fund to pay for routine administrative expenses of the regulatory program, the Centers for Medicare and Medicaid Services (CMS) could demand the funds be reimbursed with state funds. The CMP Fund is a state fund administered by the state, pursuant to federal law and regulation. The Social Security Act created a fund that returns a portion of the civil money penalties collected from health facilities back to the state. The state's use of the CMP Fund is limited to uses for the protection of the health and property of nursing facility residents that the state or the CMS find to be deficient. Money may be used to pay for the costs of relocation of residents to other facilities, state maintenance of the operation of a facility pending correction of deficiencies or closure, and reimbursement of residents for personal funds or property lost as a result of actions by the facility or individuals used to provide services. CMS guidelines further state that projects funded by the CMP Fund should be limited to funding on hand and should be relatively short-term projects. CMP funds are not to be spent on direct care costs, but rather should be used to promote better care through the reduction of deficient practices at health facilities. The balance of the CMP Fund was \$2.5 M as of January 4, 2010.

ICCMHC Priority: 4

Bill Status: Dead

SB 414

Providers of State Administered Health Care Programs

Authors: Mishler

Synopsis: Providers of state administered health care programs. Allows the office of the secretary of family and social services to exclude specified persons who engage in fraud or abuse from participating in state administered health care programs. Requires the office of the secretary to maintain a list of persons excluded from participating in state administered health care programs and provide that list to specified persons. Requires a Medicaid provider or applicant to submit a \$50,000 surety bond to the office of Medicaid policy and planning to be used for specified purposes before the provider may receive reimbursement.

Fiscal Impact: The bill would allow FSSA to exclude specified providers or persons who engage in fraud or abuse from participating in state-administered healthcare programs such as Medicaid, CHIP, CHOICE, Children with Special Health Care Needs, and Medicaid for residents of county homes. FSSA would be required to maintain a list of the providers excluded from state-administered programs including Medicaid. The list is to be made available to other health care providers. The list could be maintained on the Indiana Health Coverage Programs web page. The Medicaid Fraud Unit operated by the Attorney General would be involved in the development of the list of providers excluded from state administered programs as the agency that investigates Medicaid provider fraud. The

personnel resources needed to develop and maintain the list are not known at this time. FSSA would also need to promulgate rules prescribing how a provider that has been excluded from participation in the state-administered health care programs may be reinstated. Promulgation of rules considered to be a routine administrative function that may be accomplished within the current level of resources available to the agency. The Attorney General's Office operates the Medicaid Fraud Unit which investigates provider fraud in the state. The bill does not assign administrative responsibility for state-administered program fraud specifically. A large number of providers for state-administered programs are also Medicaid providers. There is currently no provision in state law that would prevent a provider that is excluded from participating in the Medicaid program from claiming reimbursement from another state-operated health care program. However, providers convicted of Medicaid fraud may have professional licenses revoked or suspended and persons convicted of abuse would be prevented from providing services in other state-operated programs by requirements for background checks. **Surety Bond Requirement:** The bill would after July 1, 2010, require all applicants for Medicaid provider status to furnish a \$50,000 surety bond with the application. Current Medicaid providers would have until October 15, 2010, to provide FSSA with the required surety bond. The bill provides that if a surety bond does not meet the specified requirements, OMPP may revoke or deny the provider's billing privileges. If a lapse or gap in bond coverage occurs, OMPP is required to revoke the provider's billing privileges. The bill provides that OMPP may not reimburse a Medicaid provider for services provided during the lapse or gap in coverage. The level of resources required by FSSA and OMPP to implement the surety bond requirement for Medicaid providers is not known at this time. **Explanation of State Revenues: Surety Bond Requirement:** By requiring surety bonds for all Medicaid providers, OMPP could increase recoveries for overpayments and reimbursements made for fraudulent claims. OMPP estimated in FY 2008, that the overpayment balance was in excess of \$24 M. The bill would require all Medicaid providers to furnish OMPP with a \$50,000 surety bond before the provider can receive reimbursement. The Centers for Medicare and Medicaid Services (CMS) has estimated the average annual cost of a surety bond at 3% of its face value, or about \$1,500 for a \$50,000 bond. Generally, surety bond cost is related to individual factors relating to the bondholder's risk, such as credit rating, length of time in business, or prior adverse actions, so bond prices would vary depending on the buyer. If a Medicaid provider has had an adverse judgement or final order related to Medicaid provider services within the preceding 10 years, the bill requires an additional \$50,000 surety bond. The bill appears to require all Medicaid providers to furnish a bond without making a distinction between the level of billable claims that would be submitted by different types of providers. It is assumed that a managed care organizations (MCOs) or a hospital would be required to provide the same level of bonding assurance as would an independent dentist, optometrist, or personal care assistant. **Background Information:** Medicaid providers range from MCOs, hospitals, and nursing facilities to sole healthcare practitioners and service providers. State contracts with the MCOs currently require the organizations to provide a bond in the amount of \$1 M. It is not known how many other contracted Medicaid providers are required to provide a bond as a term of the contract. Medicare regulations require certain other providers to furnish surety bonds for Medicare purposes; home health agencies are required to furnish surety bonds to Medicare and Medicaid. **Explanation of Local Expenditures:** Local government-owned hospitals and health facilities that bill Medicaid would be required to provide surety bonds for Medicaid participation. It is not known if clinics operated by local health departments or a health and hospital corporation bill Medicaid for services. The provision would apply if a clinic submits claims for Medicaid reimbursement. Local school corporations are required to apply for Medicaid provider status. Some school corporations bill for Medicaid services; others do not.

ICCMHC Priority: 2

Bill Status: Dead

Synopsis: Establishes the committee on the administration of public assistance (committee) and specifies the committee's responsibilities. Sets forth requirements for a system for making eligibility determinations for public assistance services. Requires the office of the secretary of family and social services (office) to establish an independent monitoring system to evaluate the quality of the eligibility determinations for public assistance services and sets forth requirements for the monitoring system. Requires the office to attempt to resolve any issues with an application for public assistance in the office's initial contact with the applicant. Requires the office to post specified material on the office's website. Specifies actions to be taken by the office if an unfavorable evaluation is received or if a majority of the committee votes to terminate a contract for eligibility determinations for public assistance services. Requires a public assistance office to provide voter registration assistance to each individual who in person, by telephone, or by electronic means applies for service or assistance, applies for recertification or renewal of services or assistance, or submits a change of address form. Requires that voter registration forms allow, but not require, an individual completing the form to provide an electronic mail address.

Fiscal Impact: (Revised) *Summary:* Provisions concerning the establishment of the Committee on the Administration of Public Assistance would have routine administrative expenses and require no reimbursement for the Committee members. Provisions concerning the evaluation of the eligibility system have an unknown fiscal impact. The bill requires evaluation reports, contracts, contract amendments, and any change orders or changes in reimbursement to be posted on the FSSA Internet web site. This should be a routine administrative expense. The voter registration provisions of the bill would provide for FSSA employees, subcontractors, or independent contractors in the county offices to complete voter registrations over the phone or electronically using the Secretary of State's secure website authorized by P.L. 120-2009. These offices are currently required to assist applicants with voter registrations. (Revised) *Additional Details: Committee on the Administration of Public Assistance:* The bill establishes the 10-member Committee to be comprised of eight legislators and two lay members. Beginning April 1, 2010, the Committee is required to meet every 60 days and may meet at any time during the calendar year. The Committee members serve without salary per diem or reimbursement for travel expenses. The bill specifies that FSSA is required to report at each Committee meeting on the administration of public assistance programs. The Legislative Services Agency (LSA) is required to provide staff support for the Committee. The bill's requirements are within the routine administrative functions of LSA and FSSA and should be able to be implemented with no additional appropriations, assuming near customary agency staffing and resource levels. The bill provides that if an unfavorable evaluation is received or if a majority of the Committee votes to terminate a contract for eligibility determinations for services, FSSA must terminate a contract and may not enter into or renew a contract for this activity. The cost of this provision would depend on actions taken by the Committee or the results of the evaluation required to be performed. The bill requires FSSA to establish an independent monitoring system outside FSSA to evaluate the quality of the eligibility determination process and subsequent contacts with FSSA offices by public assistance recipients. This requirement could be performed by a contractor or another state agency. The bill specifies that the evaluation must include every contact with an applicant from the initial application for services to the final determination of eligibility and any subsequent appeals. The evaluation is also to determine at what point in the process applicants drop out and the reasons they do not continue with the application process. It is not known if FSSA has an evaluation contract in place that would include or could, by change order, include the specified data. The bill also requires the evaluation to include a monthly written report of the operational expenditures made for eligibility determinations for services. The cost of the evaluation provision is not known at this time. (Revised) *Voter Registration Provisions:* The bill requires public assistance offices and Women, Infants, and Children program offices to assist applicants with voter registration applications or changes in the office or over the telephone or Internet. The bill authorizes the offices to use the Secretary of State's secure voter registration website when the applicant has an Indiana driver's license or identification card. The bill also specifies that employees or contractors' employees are authorized to perform this function in the county offices. **Explanation of State Revenues:** Food Stamps, Medicaid, and TANF administrative expenses are reimbursed by the federal government at a rate of 50%.

Bill Status: Third Reading

HB 1043

Access to Mental Health Records

Authors: Messmer, Brown C

Synopsis: Defines "psychotherapy notes" for purposes of the law concerning access to mental health records. Specifies that psychotherapy notes are the property of only the provider and must be kept separate from a mental health record. Specifies a process for a patient to obtain a physician review related to a determination concerning the patient's access to the patient's mental health records, excluding psychotherapy notes.

Fiscal Impact: None

ICCMHC Priority: 2

Bill Status: Dead

HB 1065

Various Provisions Concerning Firearms

Authors: Bischoff, Van Haften

Synopsis: Various provisions concerning firearms. Prohibits a person, including an individual, a corporation, and a governmental entity, from adopting or enforcing a policy or rule that prohibits or has the effect of prohibiting an individual from legally possessing a firearm that is locked in the individual's vehicle while the vehicle is in or on the person's property. Excepts possession of a firearm: (1) on school property, on property used by a school for a school function, or on a school bus; (2) on certain child care and shelter facility property; (3) on penal facility property; (4) in violation of federal law; (5) on property belonging to an approved postsecondary educational institution; (6) at a person's residence; (7) on the property of a domestic violence shelter; and (8) on the property of an entity subject to the United States Department of Homeland Security's Chemical Facility Anti-Terrorism Standards or the Maritime Transportation Security Act. Provides that a court does not have jurisdiction over an action that: (1) is brought against an employer who is in compliance with the prohibition against adoption or enforcement of a policy or rule that prohibits the possession of a firearm in a locked vehicle; and (2) is brought to recover for any injury or damage resulting from the employer's compliance. Authorizes a civil action for damages, costs, attorney's fees, and injunctive relief to remedy a violation. Prohibits the state, a political subdivision, or any other person from prohibiting or restricting the lawful possession, transfer, sale, transportation, storage, display, or use of firearms or ammunition during a declared disaster emergency, energy emergency, or local disaster emergency, subject to exceptions that apply to the prohibition against adoption or enforcement of a policy or rule that prohibits the possession of a firearm in a locked vehicle. Repeals provisions that allow certain political subdivisions to adopt emergency ordinances to regulate firearms if a local disaster emergency has been declared. Deletes an outdated reference.

Fiscal Impact: *Background- Civil Court Costs:* If additional civil actions occur and court fees are collected, revenue to the state General Fund may increase. A civil filing fee of \$100 would be assessed when a civil case is filed, 70% of which would be deposited in the state General Fund if the case is filed in a court of record or 55% if the case is filed in a city or town court. In addition, some or all of the document storage fee (\$2), automated record keeping fee (\$7), judicial salaries fee (\$18), public defense administration fee (\$3), court administration fee (\$5), and the judicial insurance adjustment fee (\$1) are deposited into the state General Fund. Additional fees may be collected at the discretion of the judge and depending upon the particular type of case. **Explanation of Local Expenditures:** **Explanation of Local Revenues:** *Civil Court Costs:* If additional civil actions occur, local governments would receive revenue from the following sources. The county general fund would receive 27% of the \$100 filing fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund. Additional fees may be collected at the discretion of the judge and depending upon the particular type of case.

ICCMHC Priority: 2

Bill Status: Referred to Senate

HB 1085

Disposition of certain children in need of services (CHINS)

Authors: Avery

Synopsis: Provides that reasonable efforts to reunify a child with the child's parent, guardian, or custodian or to preserve a child's family are not required with respect to a child who has been adjudicated a child in need of services (CHINS) if the court finds that the child has, on three separate occasions, been adjudicated a child in need of services because of an act or omission by the child's parent, guardian, or custodian.

Fiscal Impact: Under the bill, the Department of Child Services (DCS) employees would not be required to exercise reasonable efforts to reunify a child with the child's parent, guardian, or custodian if the child has been adjudicated a CHINS on three separate occasions by an act of omission by the parent, guardian, or custodian. This bill may increase the number of CHINS in state care (and state expenditures) if DCS is no longer required to use reasonable efforts to reunify a CHINS with a parent, guardian, or custodian. The number of CHINS in the state who have been adjudicated a CHINS on three separate occasions as a result of an act or omission by the child's parent, guardian, or custodian is indeterminable. However, the number of cases affected by this bill is expected to be minimal.

ICCMHC Priority: 3

Bill Status: Second Reading

HB 1095

Employee Personal Leave

Authors: Dvorak

Synopsis: Provides that certain employees of certain employers are entitled to take: (1) 24 hours of paid leave; and (2) 16 hours of unpaid leave; in a 12 month period.

Fiscal Impact: The impact on the state would be as an employer and on the Department of Labor to investigate and resolve complaints. *State as an Employer-* The bill should have no fiscal impact on the state as an employer since the state provides more than the required minimum. The following are the state leave benefits:

1. Vacation Leave: Up to 90 hours earned per year, 7.5 hours per month. Bonus vacation leave after 5, 10, and 20 years of service.
2. Sick Leave: Up to 67.5 hours earned per year.
3. Personal Leave: Up to 22.5 hours earned per year.
4. Holidays: 12 holidays per year.
5. Other Paid Leave: Funeral leave, jury duty, and military leave.
6. Family Leave: Up to 12 weeks of unpaid leave per year for family care, adoption, or childbirth.
7. Community Service Leave: To promote the direct involvement of state employees in public services in their community through volunteer efforts. *Department of Labor-* The other state impact would be to the Department of Labor to investigate and resolve complaints by employees about employers. The impact would depend on the number of complaints filed and the time it takes to resolve the complaint. The bill's requirements are within the agency's routine administrative functions and should be able to be implemented with no additional appropriations, assuming near customary agency staffing and resource levels.

ICCMHC Priority: 3

Bill Status: Dead

Synopsis: Establishes procedures for the attorney general to seize, secure, store, and destroy abandoned or at risk health records and other records containing personally identifying information. Creates a health records and personal information protection trust fund to pay for costs associated with securing and maintaining the records. Allows a criminal history check for employees of home health agencies and personal services agencies to be provided through a private agency. Removes the July 1, 2010, expiration that allows limited criminal histories to be used for employees of home health agencies and personal services agencies. Establishes a uniform procedure to allow a board of a regulated occupation to issue a cease and desist order to an unlicensed person who engages in an activity that requires a license. Repeals and makes conforming changes concerning cease and desist and injunction orders. Merges the cosmetology and barbers boards into one board. Changes the membership on the board of cosmetology and barber examiners. Relocates barber statutes. Establishes a mental health counselor associate license. Requires reimbursement under a policy of accident and sickness insurance or health maintenance organization contract for services provided by a licensed athletic trainer on an equal basis to reimbursement under the policy or contract for the health care services provided by other health care providers. Eliminates the controlled substances advisory committee and transfers responsibilities to the Indiana board of pharmacy. Provides for automatic revocation of controlled substances advisory commission permit if a physician's license is revoked. (Current law requires a separate administrative process to take place if a physician's license is revoked.) Repeals laws concerning the certification of environmental health specialists and licensure of hypnotists. Makes conforming changes.

Fiscal Impact: *Attorney General and Health Records-* The Attorney General (AG) would require additional expenditure to carry out this provision. The AG would be able to apply to the Marion County Circuit Court to enforce any subpoenas issued. The AG would be able to notify persons if their medical records have been taken into possession. The AG would be entitled to costs of any enforcement action taken. Medical records would have to be maintained in a depository the lesser of either three years or the remaining time on the storage of the records by a private medical professional in current law.

Attorney General and Health Records- This provision would set up the Health Records and Personal Information Protection Trust Fund (HRPIPTF) to fund the AG's expenditures to carry out health record seizure, storage, and maintenance as required under the bill. Revenue would come from a \$5 civil penalty to be assessed along with every disciplinary order imposed on a person by a professional board. The amount of revenue this provision could generate in a given year is indeterminable and would depend on the number of disciplinary orders handed down by professional boards in the future. However, the HRPIPTF would be capped at \$75,000. If the HRPIPTF exceeded \$75,000, the \$5 civil penalty imposition would cease until the fund balance went below \$75,000. The AG would administer the HRPIPTF. Revenue in the HRPIPTF would not revert to the state General Fund at the end of a state fiscal year. *Home Health Agency Criminal Checks-* This provision would result in continued revenue receipts from limited criminal history background requests for employees who have lived in the state for more than two years. Depending on the method used to request a limited criminal history background check, revenue to the IOT Portal Fund and the General Fund may increase. For every limited criminal history background check requested, \$7 is forwarded to the General Fund. If a limited criminal history background check is requested online using Access Indiana, either \$8 or \$9.32 (depending if the requestor is an Access Indiana member or not) is deposited in the IOT Portal Fund. The provision may also result in decreases in state revenue to the extent employees who have lived in the state for less than two years elect to request an expanded criminal history background check rather than a national criminal history background check. For every national criminal history background check performed in the state, \$15 is forwarded to the General Fund. Decreases in state revenue will ultimately depend on (1) any price difference between an expanded criminal history background check and a national criminal history background check and (2) if one method to request criminal history information is more accessible than another. It is assumed that if one type of criminal history background check is less expensive than another, the cheapest alternative will be selected by the requestor. Additionally, if one method to request criminal history information is easier to access, or requires less time than another, it was assumed that a more accessible method may also be preferred to the other. Any impact these factors may have on requests for national criminal history information and state revenue is indeterminable. *Board Merger & Repeal of Environmental Health Specialists and Hypnotists-* Given no

changes to fee structure or regulation within the proposed merged boards, revenue from licensing fees for barbers, should continue as currently collected. Only the complete deregulation of hypnotists and environmental health specialists would lead to a reduction in revenue. The following table illustrates the amount of revenue collected over the last two state fiscal years by each of these professional licenses.

Mental Health Counselor Associate License- The impact of this provision on state revenues is indeterminable and would depend on the fee set by the Behavioral Health Board. As of December 12, 2009, there were 1,640 mental health counselors licensed. The current fee for mental health counselors is \$50. Total revenue collected by the Behavioral Health Board in FY 2009 was \$78,348.

ICCMHC Priority: 2

Bill Status: In Rules Committee

HB 1104

Revised Lake County levy limit based on LOIT

Authors: Smith V

Synopsis: Provides that the Lake County assessed value growth quotient for determining a maximum property levy is one unless Lake County imposes a local option income tax for property tax (LOIT) relief for that calendar year. (Current law provides that Lake County's growth quotient is one unless Lake County adopts a LOIT for property tax relief at a rate of 1%.)

Fiscal Impact: Under current law, civil taxing units in Lake County cannot increase property tax levies for funds that are subject to the maximum levy limitation because the county has not adopted a property tax relief LOIT at a 1% tax rate. Under this bill, beginning with taxes payable in 2011, the 1% tax rate requirement would be removed so civil unit levy limits would grow by the statewide levy growth factor if the county adopts a property tax relief LOIT at any allowable tax rate. Under current law, either the county council or the county income tax council (made up of the county and municipalities) in Lake County may adopt a property tax relief LOIT. The tax rate may be adopted in increments of 0.05%, up to a maximum of 1%. Revenue generated from a property tax relief LOIT must be used to provide homestead credits, property tax replacement credits for residential property owners, property tax replacement credits for all taxpayers, or any combination of the three. These credits must be paid at a uniform rate within the county. The Lake County Council may also, by ordinance, determine that the revenue is to be used as follows: 1. To reduce levies imposed by the county taxing unit; 2. (a) The tax revenue collected from taxpayers within a particular municipality may be used to provide a local property tax credit at a uniform rate against property taxes imposed by that municipality; and (b) The tax revenue collected from taxpayers within the unincorporated area may be used to provide a local property tax credit to taxpayers within the unincorporated area at a uniform rate against the county unit levy; or 3. Sixty percent of the tax revenue would be used the same way as the #2 option. The remaining 40% would be distributed to the county and to townships and municipalities on the basis of population and used to reduce those taxing units' property tax levies. A 1% LOIT is currently estimated to generate \$87 M per year in Lake County. Each 0.05% increment is estimated at \$4.35 M. If Lake County adopted a property tax relief LOIT in 2010, civil taxing unit maximum levies would increase by an estimated \$11.6 M in CY 2011, \$21.5 M in CY 2012, and \$30.4 M in CY 2013, as compared to maximum levies under current law.

Possible Increase in Levies if LOIT Adopted in 2010

Unit Type 2011 2012 2013

County 3.1 5.7 8.1

Townships 0.7 1.3 1.8

City/Towns 6.1 11.2 15.8

Schools 0.0 0.0 0.0

Libraries 0.8 1.5 2.0

Special Units 1.0 1.9 2.6

TIF Replacement 0.0 0.0 0.0

Total 11.6 21.5 30.4

* **Totals may not add due to rounding.** Circuit breaker credits would also be affected. The amount and direction of change would depend on the LOIT tax rate that would be adopted and on the method of distribution of the LOIT revenue.

ICCMHC Priority: 2

Bill Status: Dead

HB 1110

Early Intervention Service Plans

Authors: Summers

Synopsis: Creates the community services plan for early intervention services for delinquent children and children in need of services. Repeals the chapter concerning regional service strategic plans.

Fiscal Impact: This bill will reverse provisions included in HEA 1001-2008 that replaced community services plans for early intervention services with regional service strategic plans and councils. Code provisions regarding regional service strategic plans and councils will be repealed. Formerly, members of the county early intervention plan teams served without reimbursement. Currently, members of regional services councils also do not receive reimbursement for per diem, mileage, or other expenses relating to their role on the council. County fiscal bodies and local county government would experience a slight increase in workload to appoint members to county early intervention plan teams, perform duties specified in the bill, and develop community service plans to govern their early intervention program. Workload may be minimized to the extent counties form joint teams and adopt a single multicounty early intervention plan or adopt an existing plan for the provision of family preservation services.

ICCMHC Priority: 3

Bill Status: Dead

HB 1151

Basic Health Insurance Coverage

Authors: Brown T

Synopsis: Allows, under certain circumstances, an accident and sickness insurer or a health maintenance organization to provide a policy or contract without complying with all health benefit mandates.

Fiscal Impact: The bill requires insurers and HMOs to report specified information to the DOI concerning policies and contracts. These provisions will increase DOI administrative expenses. However, it is presumed that the DOI will be able to implement these provisions within its existing level of resources. The impact on the state, if any, is a potential decrease in demand for ICHIA (Indiana Comprehensive Health Insurance Association) policies. Any impact is likely to be small. However, insurers under existing law might not be willing to provide coverage to an individual who has a specific condition. ICHIA might be the only insurer willing to provide health coverage to the individual. Under the proposal, insurers other than ICHIA might be willing to offer this person a health insurance policy that provides for all other health concerns except concerns related to the specific condition. In this case, the person might choose to purchase the insurance policy with the waiver if at a lower premium cost than an ICHIA policy. (The above example was for illustration purposes only.) *ICHIA Background:* All carriers, health maintenance organizations, limited service health maintenance organizations, and self-insurers providing health insurance or health care services in Indiana are ICHIA members. ICHIA determines net premiums, administrative expenses, and incurred losses for the year. Twenty-five percent of any net loss is assessed members in proportion to their respective shares of total health insurance premiums, and 75% of the net loss is to be paid by the state. Net gains, if any, must be held at interest to offset future losses or allocated to reduce future premiums. To be eligible for an ICHIA policy, an Indiana resident must show evidence of being denied insurance coverage under any insurance plan that meets or exceeds the minimum requirements for accident and sickness insurance policies issued in Indiana without material underwriting restriction; an insurer has refused to issue insurance except at a rate exceeding the ICHIA plan rate; or the individual is eligible under the federal Health Insurance Portability and Accountability Act. The individual may not be eligible for Medicaid or Medicare. ICHIA provides health coverage to

approximately 6,900 individuals in the high risk program and 500 individuals in the Healthy Indiana Program (which the state funds through cigarette tax revenue). Members who have paid assessments prior to January 1, 2005, may take a credit against premium taxes and adjusted gross income taxes for each calendar year in which the assessments were paid and for succeeding years until the aggregate of those assessments have been offset by either credits against those taxes or refunds from the ICHIA. Members may include in premiums charged for insurance policies amounts sufficient to recoup a sum equal to the amounts paid to ICHIA. **Explanation of State Revenues:**

Explanation of Local Expenditures: The proposal could affect expenditures of those local units and school corporations that employ not more than 50 employees and that purchase group insurance or HMO coverage. The impact will depend on the number and nature of policies that employers opt to purchase that do not comply with all health benefit mandates. It is unknown if local units would absorb any savings or pass the savings on to employees, as cost sharing of health benefit premiums varies widely by locality.

ICCMHC Priority: 4

Bill Status: In Rules Committee

HB 1157 **Select Joint Commission on Child Welfare Services Oversight** **Authors: Avery**

Synopsis: Establishes the select joint commission on child welfare services oversight.

Fiscal Impact: This bill will increase state expenditures to provide salary, per diem, and travel allowances to the 12 members of the General Assembly that serve on the Commission. Actual increases in expenditures will depend on the number of meetings requested by the Commission Chair as well as the number of Commission members that attend meetings annually. Based on the average annual expenditure of Legislative Study Committees with approximately 12 members, creating the Select Joint Commission on Child Welfare Services Oversight is expected to increase state expenditures, or decrease reversions to the General Fund, by approximately \$6,000 per year.

ICCMHC Priority: 3

Bill Status: Second Reading

HB 1174 **Interim Committee on Public Assistance** **Authors: Tyler**

Synopsis: Establishes the interim committee on the administration of public assistance for two years. Requires the committee to do the following: (1) Review the administration of public assistance in Indiana. (2) Take public testimony on problems or concerns concerning the administration of public assistance in Indiana. (3) Receive testimony, responses to committee questions, and updates from the office of the secretary of family and social services or a contractor for the office of the secretary concerning changes in the public assistance eligibility process in Indiana.

Fiscal Impact: This bill establishes a new interim study committee which is staffed by the Legislative Services Agency. The Interim Committee on the Administration of Public Assistance is to consist of 10 members; 8 members of the General Assembly and 2 lay members. Under the bill, members of the Committee are *not* entitled to per diem and travel reimbursement. The committee is to operate under the policies governing study committees adopted by the Legislative Council. *Background:* Legislative Council resolutions in the past have established budgets for interim study committees in the amount of \$9,500 per interim for committees with fewer than 16 members. However, this bill does not allow members to be reimbursed for per diem or travel expenses related to duties of this committee.

ICCMHC Priority: 3

Bill Status: In Rules Committee

HB 1178

Returning National Guard

Authors: Bartlett, Reske

Synopsis: Requires the adjutant general of the Indiana National Guard to require a member of the Indiana National Guard who completes a United States Department of Defense form "Post-Deployment Health Reassessment" (PDHRA) to participate in a face-to-face clinical interview with a trained health care provider concerning the Indiana National Guard member's PDHRA. (Currently, the Department of Defense provides that a PDHRA clinical interview may be conducted in person or over the telephone.)

Fiscal Impact: The Indiana National Guard reports the Post-Deployment Health Reassessment program currently offered is federally funded and authorized by federal regulation. Codifying this current practice into Indiana Code will not have a fiscal impact unless federal regulations or federal funding for the PDHRA program changes in the future. *Background Information:* Currently the Indiana National Guard requires National Guard members to undergo a PDHRA, both upon return and six months after they return from a conflict abroad. According to the National Guard, these assessments are currently performed face-to-face for the initial PDHRA, and the second assessment may be completed either in person or by other means that are not face-to-face (i.e., over the Internet or via phone). According to the National Guard, the second assessment is strongly encouraged to be completed in person.

ICCMHC Priority: 4

Bill Status: Referred to Seante

HB 1185

Health Care Consent

Authors: Sullivan

Synopsis: Provides that an adult who shares an emotional, physical, and financial relationship with a patient similar to that of a spouse may consent to health care for an individual incapable of consenting if a health care representative has not been appointed.

Fiscal Impact: None

ICCMHC Priority: 4

Bill Status: Dead

HB 1226

Health and Medicaid Fraud Matters

Authors: Reske

Synopsis: Health and Medicaid fraud matters. Establishes procedures for the attorney general to seize, secure, store, and destroy abandoned or at risk health records and other records containing personally identifying information. Creates a health records and personal identifying information protection trust fund to pay for costs associated with securing and maintaining the records. Allows the office of the secretary of family and social services to exclude specified persons who engage in fraud or abuse from participating in state administered health care programs. Requires the office of the secretary to maintain a list of persons excluded from participating in state administered health care programs and provide that list to specified persons. Requires a Medicaid provider or applicant to submit a \$50,000 surety bond to the office of Medicaid policy and planning to be used for specified purposes before the provider may receive reimbursement. Establishes a uniform procedure to allow a board of a regulated occupation to issue a cease and desist order to an unlicensed person who engages in an activity that requires a license. Repeals and makes conforming changes concerning cease and desist and injunctions orders. Prohibits health professions licensing boards from accepting the surrender of a license if the attorney general files an administrative action against the practitioner and opposes the surrender. Provides for automatic revocation of a controlled substances advisory commission permit if a physician's license is revoked. (Current law requires a separate administrative process to take place if a physician's license is revoked.) Provides that a pharmacist, pharmacy technician, or person authorized by a pharmacist to dispense a controlled substance may not dispense a

controlled substance to a person who is not personally known to the pharmacist, pharmacy technician, or person authorized by a pharmacist to dispense a controlled substance unless the person taking possession of the controlled substance provides documented proof of the person's identification to the pharmacist, pharmacy technician, or person authorized by a pharmacist to dispense a controlled substance.

Fiscal Impact: *State-Administered Program Fraud Provisions:* The bill would allow FSSA to exclude specified providers or persons who engage in fraud or abuse from participating in state administered healthcare programs such as Medicaid, CHIP, CHOICE, Children with Special Health Care Needs, and Medicaid for residents of county homes. FSSA would be required to maintain a list of the providers excluded from state-administered programs including Medicaid. The list is to be made available to other health care providers. The list could be maintained on the Indiana Health Coverage Programs web page. The Medicaid Fraud Unit operated by the Attorney General would be involved in the development of the list of providers excluded from state-administered programs as the agency that investigates Medicaid provider fraud. The personnel resources needed to develop and maintain the list are not known at this time. FSSA would also need to promulgate rules prescribing how a provider that has been excluded from participation in the state-administered health care programs may be reinstated. Promulgation of rules is considered to be a routine administrative function that may be accomplished within the current level of resources available to the agency. The Attorney General's Office operates the Medicaid Fraud Unit which investigates provider fraud in the state. The bill does not assign administrative responsibility for state-administered program fraud specifically. A large number of providers for state-administered programs are also Medicaid providers. There is currently no provision in state law that would prevent a provider that is excluded from participating in the Medicaid program from claiming reimbursement from another state-operated health care program. However, providers convicted of Medicaid fraud may have professional licenses revoked or suspended and persons convicted of abuse would be prevented from providing services in other state-operated programs by requirements for background checks. *Surety Bond Requirement:* The bill would after July 1, 2010, require all applicants for Medicaid provider status to furnish a \$50,000 surety bond with the application. Current Medicaid providers would have until October 15, 2010, to provide FSSA with the required surety bond. The bill provides that if a surety bond does not meet the specified requirements, OMPP may revoke or deny the provider's billing privileges. If a lapse or gap in bond coverage occurs, OMPP is required to revoke the provider's billing privileges. The bill provides that OMPP may not reimburse a Medicaid provider for services provided during the lapse or gap in coverage. The level of resources required by FSSA and OMPP to implement the surety bond requirement for Medicaid providers is not known at this time. *Attorney General and Health Records:* The Attorney General (AG) would require additional expenditure to carry out this provision. The AG would be able to apply to the Marion County Circuit Court to enforce any subpoenas issued. The AG would be able to notify persons if their medical records have been taken into possession. The AG would be entitled to costs of any enforcement action taken. Medical records would have to be maintained in a depository the lesser of either three years or the remaining time on the storage of the records by a private medical professional in current law. *Uniform Cease and Desist:* This provision may generate a minor increase in expenditures for the AG if more investigations involving professional licenses occur. Under current law, the AG already investigates complaints of the licensed professions and can currently enjoin an individual found in violation of licensing law. The Professional Licensing Agency (PLA) is currently able to, or in conjunction with the AG, impose cease and desist orders on various professionals. This provision should affect PLA expenditures minimally. *Revocation of Controlled Substances Permit:* This provision would speed up the process of removing a controlled substances permit certification from a person that has had their professional license revoked. The process should reduce the administrative expense to process two separate revocation proceedings. *Identification Required to Dispense a Controlled Substance:* This provision should have no fiscal impact. **Explanation of State Revenues:** *Surety Bond Requirement:* By requiring surety bonds for all Medicaid providers, OMPP could increase recoveries for overpayments and reimbursements made for fraudulent claims. OMPP estimated in FY 2008, that the overpayment balance was in excess of \$24 M. The bill would require all Medicaid providers to furnish OMPP with a \$50,000 surety bond before the provider can receive reimbursement. The Centers for Medicare and Medicaid Services (CMS) has estimated the average annual cost of a surety bond at 3% of its face value, or about \$1,500 for a \$50,000 bond. Generally surety bond cost is related to individual factors relating to the bondholder's risk such as credit rating, length of time in business, or prior adverse actions, so bond prices would vary depending on the buyer. If a Medicaid provider has had an adverse judgement or final order related to Medicaid provider services within the preceding 10 years, the bill requires an additional \$50,000 surety

bond. The bill appears to require all Medicaid providers to furnish a bond without making a distinction between the level of billable claims that would be submitted by different types of providers. It is assumed that a managed care organization (MCO) or a hospital would be required to provide the same level of bonding assurance as would an independent dentist, optometrist, or personal care assistant. *Attorney General and Health Records*- This provision would set up the Health Records and Personal Identifying Information Protection Trust Fund to fund the AG's expenditures to carry out health record seizure, storage, and maintenance as required under the bill. Revenue would come from a \$5 civil penalty to be assessed along with every disciplinary order imposed on a person by a professional board. The amount of revenue this provision could generate in a given year is indeterminable and would depend on the number of disciplinary orders handed down by professional boards in the future. Professional boards and administrative law judges conducted approximately 800 disciplinary and appeal hearings in 2008. Based on the number of hearings held in 2008, annual income to the fund is likely to be less than \$4,000. The fund would be capped at \$75,000. If the fund exceeded \$75,000, the \$5 civil penalty imposition would cease until the fund balance went below \$75,000. The AG would administer the fund. Revenue in the fund would not revert to the state General Fund at the end of a state fiscal year. *Surety Bond Background Information*: Medicaid providers range from MCOs, hospitals, and nursing facilities to sole healthcare practitioners and service providers. State contracts with the MCOs currently require the organizations to provide a bond in the amount of \$1 M. It is not known how many other contracted Medicaid providers are required to provide a bond as a term of the contract. Medicare regulations require certain other providers to furnish surety bonds for Medicare purposes; home health agencies are required to furnish surety bonds to Medicare and Medicaid. **Explanation of Local Expenditures: Surety Bond Requirements**: Local government-owned hospitals and health facilities that bill Medicaid would be required to provide surety bonds for Medicaid participation. It is not known if clinics operated by local health departments or a health and hospital corporation bill Medicaid for services. The provision would apply if a clinic submits claims for Medicaid reimbursement. Local school corporations are required to apply for Medicaid provider status. Some school corporations bill for Medicaid services; others do not.

ICCMHC Priority: 2

Bill Status: Second Reading

HB 1240

Various Insurance Matters

Authors: Fry

Synopsis: Various insurance matters. Makes various changes to the law concerning: (1) pharmacy actions with respect to prescriptions; (2) disclosures of insurer information; (3) insurer examinations; (4) annual audited financial reporting; (5) foreign and alien insurers requirements; (6) insurance producer licensing and continuing education; (7) records of insurer held securities; (8) insurance holding company transactions; (9) insurance administrator licensing; (10) an unauthorized insurers exception in relation to an industrial insured; (11) consistency in compliance with laws by various types of insurers and health maintenance organizations; (12) requirements for discretionary groups for purposes of accident and sickness insurance; and (13) small employer group insurance requirements. Makes conforming amendments. Repeals: (1) definitions of unused terms for purposes of the annual audited financial reporting law; (2) a provision concerning notice of claim recoding by insurance administrators; (3) an obsolete cross reference for purposes of the small employer group insurance law; and (4) the small employer group voluntary reinsurance program law.

Fiscal Impact: *Retention of an Examiner.* The bill provides that the DOI is not required to follow certain requirements specified in the public purchasing law. The DOI works with auditing groups and certain situations require the DOI to work quickly in order to investigate financials of insurance companies. Requiring the DOI to submit a request for proposals could slow the process. The provision will have no fiscal impact, but could enhance the responsiveness of the DOI. *Rules.* The DOI Commissioner may adopt rules to implement the provisions of the bill. This requirement is within the DOI's routine administrative functions and should be able to be implemented with no additional appropriations, assuming near customary agency staffing and resource levels. The remainder of the bill codifies rules already in place, clarifies, or updates the code to conform to national standards. The bill also gives the DOI the ability to adjust fees to cover increases in expenses when necessary. Repealed cites are cites that are no longer applicable. There are no significant fiscal impacts in these provisions.

ICCMHC Priority: 3

Bill Status: Second Reading

HB 1262

Medicaid Prescription Drugs

Authors: Brown C

Synopsis: Medicaid prescription drugs. Defines "waste" for purposes of drug utilization review. Allows the office of Medicaid policy and planning to restrict the use of a mental health drug that is prescribed for an individual less than 18 years of age under certain conditions.

Fiscal Impact: None

ICCMHC Priority: 2

Bill Status: Dead

HB 1277

Health Disparities in Medicaid

Authors: Brown C

Synopsis: Health disparities in Medicaid. Requires a managed care organization (MCO) that contracts with the office of Medicaid policy and planning (OMPP) to provide Medicaid services to do the following: (1) Report to the select joint commission on Medicaid oversight concerning the MCO's culturally and linguistically appropriate services standards plan and the progress in implementing these standards. (2) Report to OMPP specified member related information. (3) Implement standards concerning culturally and linguistically appropriate services (CLAS), and encourage practices that are more culturally and linguistically accessible. (4) Develop and administer a community based health disparities advisory council. (5) Include as part of the member's pharmacy benefits that the labeling of the prescription drug be printed in the member's preferred language. Requires OMPP to, beginning January 1, 2011, withhold a percentage of reimbursement from a managed care organization under specified circumstances. Requires the inclusion of criteria evaluating the MCO's cultural competency in working with minority populations in a request for proposal, and requires preferences to be awarded to an MCO that shows evidence of cultural competency. Requires OMPP to: (1) annually report certain Medicaid claims information to the legislative council; and (2) establish standards and guidelines and ensure continuity of care for Medicaid recipients who transfer from an MCO. Requires Medicaid vendors to establish specified quality initiatives.

Fiscal Impact: *MCO Requirements:* The provisions of the bill would apply to all managed care organizations that contract with OMPP. This would include managed care services in Medicaid, the Children's Health Insurance Program (CHIP), and the Healthy Indiana Plan (HIP). Any additional MCO costs required by the bill would occur within the capitated managed care contracts. The state pays a capitated amount for each MCO member month regardless of the cost incurred by the MCO for the member's care or the MCO's administrative costs. The bill would result in increased costs to the state to the extent that increased risk-based managed care costs, which must be actuarially determined, would be passed through to the state in the negotiated rates for the CY 2011 capitation rate. The fiscal impact would depend on actions taken by the MCOs to implement the provisions of the bill. *RFP Requirements:* The bill would require all future RFPs for risk-based managed care services to include criteria concerning the bidder's cultural competency in working with minority populations for evaluation of proposals and award preference points to bidders that provide evidence of cultural competency. This provision should be achievable within the level of resources available to the agency for administrative functions. *OMPP Reporting Requirements:* The bill requires OMPP to include additional specified Medicaid information with the required annual report to the Legislative Council. The General Assembly web site did not include a report from OMPP with information currently required by statute. Some of the data elements required for the current report may be found on the OMPP web page. Other specified data elements are currently collected, others may require coordination with the State Department of Health Vital Records Division, and others may require additional data collection by either the MCOs or OMPP. The level of resources required to obtain and report all the specified data is not known at this time. *Withholding MCO Reimbursement:* The bill would require OMPP to withhold a

percentage of reimbursement from a managed care organization that shows a lack of improvement in improving health disparity outcomes. This provision would probably not be enforceable until it is included in a contract amendment or a new contract. OMPP currently includes pay for performance in the MCO contracts. Quality performance measures are determined and target levels are set by OMPP. MCOs that meet or exceed the goal levels are eligible for additional payments. *Medicaid Vendor Quality Initiatives:* The bill requires any person that receives reimbursement under Medicaid or that contracts with OMPP to provide direct services to implement at least two quality improvement initiatives in obstetrics, asthma, diabetes, immunizations, or the items included in the HEDIS data set. At least one of the initiatives must address race, ethnic, or other geographic disparities. The providers would be required to include baseline data on individuals receiving services from the provider, include measurable goals and outcomes, and use a third-party source to evaluate the provider's initiatives. This requirement appears to apply to all providers regardless of the amount of reimbursement involved or the volume of services provided; single practitioners, Area Agencies on Aging, hospitals, nursing facilities, and MCOs would be required to comply. The bill does not provide any enforcement authority or require reporting of the quality improvement initiatives, the outcomes, or evaluations. The Medicaid program is jointly funded by the state and federal governments. The state share of program expenditures is approximately 36%. Medicaid medical services are matched by the federal match rate (FMAP) in Indiana at approximately 64%. Administrative expenditures with certain exceptions are matched at the federal rate of 50%. *Background & Additional Details on MCO Requirements-* Additional requirements imposed on MCOs by the bill include the following. (1) The three Medicaid MCOs are required to report to the JCMO concerning the MCO's culturally and linguistically appropriate services standards plan and the progress in implementing these standards. This reporting requirement alone should not result in additional cost to the MCOs or the state. (2) MCOs are required to report information concerning race and the primary language of the members enrolled with the MCO to OMPP. States are required to provide this information to the MCOs. OMPP reported in the Quality Strategy Overview for 2008, that the Medicaid application process solicits information on the applicant's race and primary language. At that time, OMPP did not have the ability to transmit the race data to the MCOs. OMPP was also investigating the possibility of collecting ethnicity data during the application process. It was further reported that data regarding the primary language spoken is sent to the MCOs twice monthly. It is not known at this time what progress was made by OMPP on providing the race and language data to the MCOs. MCO contracts contain language requirements compliant with federal regulations. (3) The bill requires the MCOs to establish and administer standards concerning culturally and linguistically appropriate services. The standards are to be included in a written plan to encourage practices that are more culturally and linguistically accessible. The MCOs are required to report annually on the progress of the plan to the Interagency State Council on Black and Minority Health. (4) The bill requires each of the three MCOs to establish and administer a community-based health disparities advisory council. The bill requires the councils to have nine specified members representing certain constituencies and then provides that 75% of the council membership must be individuals that are not employed by the MCO. The bill specifies the duties of the health disparity advisory councils and also provides that the MCOs are required to pay for the costs of the councils including travel expenses of the members. The MCO contracts would probably need to be amended to include this provision. Cost to the state would be passed through the contractual capitated payments the state pays the MCOs. (5) The bill also requires the MCOs to print the labels of prescription drugs in the member's preferred language. This provision should have no impact on the MCOs since Medicaid prescription drug benefits were removed from the MCO contracts. OMPP now contracts directly with the pharmacy benefits manager for managed care Medicaid recipients.

ICCMHC Priority: 3

Bill Status: Second Reading

HB 1295

School Counselors

Authors: Porter

Synopsis: Establishes specific target counselor/student ratios to be used for the hiring of school counselors, school social workers, and school psychologists. Requires the department of education, in cooperation with other appropriate associations, to develop a uniform job description for school counselors. Requires individuals seeking

initial licensure for school counseling to provide evidence of performance in certain areas. Makes a technical correction.

Fiscal Impact: *School Elementary Counselors, School Social Workers, and Schools Psychologists Program:* The bill specifies the staffing ratios goals for the School Elementary Counselors, School Social Workers, and Schools Psychologists Program. The bill would establish a standard of 250 students for each school counselor, 400 students for each social worker, and 1,000 students for each school psychologist. Based on the number of employees reported on the Department of Education's 2007-2008 school year certified staff report about 2,317 additional counselors, 2,237 additional social workers, and 656 additional psychologists would be needed by local schools. The estimated costs of the additional staff would be about \$214.6 M if all school were to meet these goals. The program is to be funded by grants from the Elementary School Counselors, Social Workers, and School Psychologists Fund. The current program was not funded during the 2009-2011 biennium. This bill does not contain any appropriations for this fund. *School Counselor License:* The Department of Education should be able to develop of a uniform job description for school counselors within their existing resources. The bill also does not allow the Department to issue a license in school counseling unless the person provides evidence of performance in:

1. Developmental guidance instruction.
2. Educational development.
3. Career development student assistance services.
4. Counseling strategies.
5. Prevention programming.
6. Crisis intervention leadership.
7. Advocacy for students.
8. Professional growth. The bill could increase the cost of the Department to license counselors depending on the amount of performance data that has to be reviewed. The additional work would be done within existing resources.

ICCMHC Priority: 4

Bill Status: Third Reading

HB 1303

County Hospitals Operating Health Facilities

Authors: Borders, Herrell, Hinkle

Synopsis: Allows a county hospital to own or operate, or contract with a person to operate, a health facility.

Fiscal Impact: This bill could potentially impact the amount of the Quality Assessment Fee (QAF) collected by the state from health facilities. The current statute requires that 80% of the QAF collected, must be used to leverage federal Medicaid matching funds to increase nursing facility reimbursement targeting specific uses. The remaining 20% of the estimated QAF must be used to offset Medicaid costs incurred by the state. Any reductions in the QAF collected, would also reduce the amount available to the state. If facilities with fewer than 70,000 total annual patient days are acquired by local government-owned entities, the amount of the QAF would be reduced 75% (from \$10 per non-Medicare patient day to \$2.50 per non-Medicare patient day) due solely to the changed ownership status. The fiscal impact would depend on the actions of local government-owned hospitals.

Background Information: Quality Assurance Fee: In the current model approved by CMS, the amount of the QAF is based on a nursing facility's total annual patient days. Quality assessments of \$10 per non-Medicare patient day are to be collected from nursing facilities with total annual patient days of less than 70,000 days. Facilities with annual patient days equal to or greater than 70,000 days will be assessed \$2.50 per non-Medicare day. Local government-owned nursing facilities will be assessed \$2.50 per non-Medicare patient day, as well. Nursing facilities that are continuing care retirement communities, hospital-based, or owned by the state are exempt from the QAF. **Explanation of Local Expenditures:** The fiscal impact of this provision would depend on actions taken by the individual county hospitals. **Explanation of Local Revenues:** The fiscal impact of this provision would depend on actions taken by the individual county hospitals. Under current law, counties may own nursing facilities.

Background Information: SEA 309-2001 required the Office of Medicaid Policy and Planning (OMPP) to file a Medicaid State Plan amendment to allow the state to make additional payments up to the Medicare Upper Payment Limit (UPL) to non-state governmental nursing facilities in Indiana as permitted by federal regulations and subject to the availability of matching funds. At the time the State Plan amendment was filed, there were seven non-state governmental nursing facilities in the state. The facilities supplied the state matching funds required through intergovernmental transfers. Health and Hospital Corporation of Marion County (HHC) was already operating a nursing facility and later acquired other facilities within Marion County for which the UPL could be claimed. In 2003, the General Assembly enacted P.L. 255, which contained a provision that allowed the HHC to extend the powers, authority, and duties of the corporation outside Marion County as authorized by the corporation's board of directors. This provision allowed the HHC to acquire additional nursing facilities for which the UPL could be claimed. According to the Indiana State Department of Health (ISDH) website, HHC owns 33 facilities statewide with over 4,000 Medicare/Medicaid certified beds.

ICCMHC Priority: 3

Bill Status: Dead

HB 1320

Medication Changes

Authors: Harris

Synopsis: Requires a pharmacist to inform a prescribing physician or physician's office of a change in manufacturer of a lifeline medicine.

Fiscal Impact: None

ICCMHC Priority: 3

Bill Status: Second Reading

HB 1321

TANF Recipient Education

Authors: Harris

Synopsis: Requires certain individuals and children who receive Temporary Assistance for Needy Families to attend educational training approved by the division of family resources.

Fiscal Impact: This bill requires TANF recipients who are less than 25 years of age and who have at least one child to attend an educational training program approved by the Division of Family Resources unless the individual has obtained at least an associate's degree. Additionally, the child of the TANF recipient, if the child is at least two years of age, is required to attend an approved educational program. DFR currently does not have any programs that may satisfy the requirements of the bill. The bill is silent on who pays for the costs of educational training. The bill's requirements may be met if individuals are independently enrolled in educational programs. The state may experience increases in expenditures to provide, or provide for, educational training at no or partial cost to TANF recipients. State expenditures can be offset if DFR elects to require user fees to pay for a portion of the program. Any increase in expenditures would ultimately depend on the decisions of DFR administrators.

Explanation of State Revenues: Because the bill is silent on who pays the costs of educational programs, state revenue may increase to the extent DFR administrators elect to require user fees for educational training programs administered by the state or by a third party. Increases in revenue would depend on the decisions of DFR administrators.

ICCMHC Priority: 4

Bill Status: Dead

HB 1357

Price Based Nursing Home Reimbursement

Authors: Harris

Synopsis: Price based nursing home reimbursement under Medicaid. Requires the select joint commission on Medicaid oversight to study the impact of changing health facility reimbursement under the Medicaid program to a price based reimbursement system. Sets the health facility quality assessment fee (QAF) at the maximum amount allowed by the federal government (5.5%).

Fiscal Impact: *Select Joint Commission on Medicaid Oversight:* This bill would require the Select Joint Commission on Medicaid Oversight to include this topic in the Commission's work plan for the 2010 interim session. During the 2009 interim, the 12-member Commission held three meetings and spent approximately \$6,300. Legislative Council resolutions in the past have established budgets for interim study committees in the amount of \$9,500 per interim. *Quality Assessment Fee:* This bill would increase the amount of Medicaid reimbursement for nursing facilities as a result of an increase in the QAF and would extend the QAF for three additional years through FY 2014. The current statute requires that 80% of the QAF collected must be used to leverage federal Medicaid matching funds to increase nursing facility reimbursement, targeting specific uses. The remaining 20% of the estimated QAF must be used to offset Medicaid costs incurred by the state. During the period of ARRA stimulus funding, 60% of the QAF is used for enhanced nursing facility reimbursement and 40% remains with the state. Should federal financial participation become unavailable to provide for the additional reimbursement, current law provides that the Office of Medicaid Policy and Planning (OMPP) will cease to collect the QAF. The amount of increased reimbursement for nursing facilities available would depend on whether the federal Centers for Medicare and Medicaid Services (CMS) approves an increase in the QAF. The bill would require OMPP to apply to CMS for approval to increase the amount of the QAF to the maximum percentage allowed by federal law. Medicaid waiver and plan amendments are generally considered to be administrative in nature and achievable within the current level of resources available to the OMPP. However, OMPP may be required to revise the current assessment methodology. It is not known if OMPP would require additional resources to revise the QAF. [This information will be supplied when it is available from OMPP.] An increase in the QAF could increase the speed at which some nursing facility residents spend down their assets and become Medicaid-eligible. The Medicaid program is jointly funded by the state and federal governments. The state share of program expenditures is approximately 34%. Medicaid medical services are matched by the federal match rate (FMAP) in Indiana at approximately 66%. The ARRA stimulus add-on percentage of 6.2% and the estimated 2.77% bonus unemployment percentage do not apply to medical assistance that is currently eligible for enhanced FMAP such as CHIP, nor do they apply to Disproportionate Share Hospital payments. Administrative expenditures with certain exceptions are matched at the federal rate of 50%. **Explanation of State Revenues:** *Extension of the QAF:* Extending the authorization for the collection of the QAF and the related increased expenditures from August 2011 to August 2014 would authorize an estimated annual collection of about \$100 M for three additional years if nursing facility days remain constant. The QAF currently expires August 2011. The OMPP has estimated that increasing the assessment to 5.5%, the maximum level of collections allowable, would require increasing the collections by \$36.9 M to raise a total of approximately \$135.5 M annually. The state share of the collections would increase by approximately \$7.4 M to a total of \$27.5 M using the regular FMAP. *Background:* In the current model approved by CMS, the amount of the QAF is based on a nursing facility's total annual patient days. Quality assessments of \$10 per non-Medicare patient day are to be collected from nursing facilities with total annual patient days of less than 70,000 days. Facilities with annual patient days equal to or greater than 70,000 days will be assessed \$2.50 per non-Medicare day. Local government-owned nursing facilities will be assessed \$2.50 per non-Medicare patient day, as well. Nursing facilities that are continuing care retirement communities, hospital-based, or owned by the state are exempt from the QAF. It is not clear from the bill if the methodology would have to be changed from the current model to collections based on net patient revenues. **Explanation of Local Expenditures:** County-owned nursing facilities would be required to pay an increase in the Medicaid QAF. **Explanation of Local Revenues:** County-owned nursing facilities would potentially receive an increase in reimbursement as a result of leveraging additional federal dollars through the QAF. Individual circumstances would determine if a facility would receive more revenue than is paid out for the QAF.

ICCMHC Priority: 3

Bill Status: Dead

Synopsis: Medicaid providers and electronic records. Requires a Medicaid provider to use an electronic health records system not later than January 1, 2011

Fiscal Impact: Explanation of State Expenditures: This bill does not specify if an electronic health record is an electronic medical record, an electronic claim for Medicaid reimbursement, or both. If the required record involves Medicaid reimbursement claims, the bill should have limited fiscal impact on the state. It could result in savings if paper claims are eliminated. Any savings would accrue to the contractors performing claims processing on behalf of the state until such time as the contract might be amended or rebid. The Indiana Health Coverage Programs reported that for the last quarter of FY 2007, approximately 11% of non-pharmacy claims were paper claims. These claims did not include claims for risk-based managed care. [Information regarding the types of providers that submit paper claims will be updated when it is received.] If the required electronic health record is considered to be a medical record, it is not known how many Medicaid providers use electronic systems or that use systems that would be compatible with a system selected by the Office of Medicaid Policy and Planning (OMPP).

Explanation of State Revenues: Explanation of Local Expenditures: Local government-owned hospitals and health facilities, local school corporations, and any other local entity that provides Medicaid services would be required to use an electronic system. The cost would depend on the system requirements.

ICCMHC Priority: 2

Bill Status: Dead