

# HOUSE BILL No. 1353

---

## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 16-18-2; IC 16-21-2; IC 16-28-2-13.

**Synopsis:** Health care staffing. Requires a hospital to establish a nurse staffing council or assign the functions of the council to an entity in the hospital to develop a nurse staffing plan and review any reported deviations from the plan. Prohibits a hospital from taking certain actions against an employee or contract worker for filing a deviation report. Prohibits a hospital, ambulatory outpatient surgery center, health facility, or residential care facility from requiring a registered nurse or licensed practical nurse to work mandatory overtime. Establishes exceptions. Prohibits a hospital, ambulatory outpatient surgery center, health facility, or residential care facility from taking certain actions against an employee who does not consent to work mandatory overtime.

**Effective:** July 1, 2023.

---

---

## Ledbetter

---

---

January 17, 2023, read first time and referred to Committee on Public Health.

---

---



First Regular Session of the 123rd General Assembly (2023)

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

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

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2022 Regular Session of the General Assembly.

# HOUSE BILL No. 1353

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

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

1 SECTION 1. IC 16-18-2-84, AS AMENDED BY P.L.141-2014,  
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2023]: Sec. 84. **(a) "Council", for purposes of**  
4 **IC 16-21-2-18, has the meaning set forth in IC 16-21-2-18(b).**

5 **(b) "Council", for purposes of IC 16-46-6, refers to the interagency**  
6 **state council on black and minority health.**

7 SECTION 2. IC 16-18-2-214.8 IS ADDED TO THE INDIANA  
8 CODE AS A **NEW SECTION TO READ AS FOLLOWS**  
9 **[EFFECTIVE JULY 1, 2023]: Sec. 214.8. "Mandatory overtime",**  
10 **for purposes of IC 16-21-2 and IC 16-28-2, means hours an**  
11 **employee is required to work, including being on call, in excess of**  
12 **the hours specified by an employee's employment agreement.**

13 SECTION 3. IC 16-21-2-18 IS ADDED TO THE INDIANA CODE  
14 AS A **NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY**  
15 **1, 2023]: Sec. 18. (a) As used in this section, "council" means a**  
16 **nurse staffing council established in a hospital or an entity to which**  
17 **functions are assigned in a hospital under subsection (b).**



1           **(b) Each hospital shall:**

2               **(1) establish a council; or**

3               **(2) assign the functions of the council that meet the**  
 4               **requirements under this section to a similar existing entity**  
 5               **within the hospital.**

6           **(c) At least fifty-one percent (51%) of the members of the**  
 7           **council must be registered nurses who spend at least fifty percent**  
 8           **(50%) of work time in direct patient care.**

9           **(d) Each council shall do the following:**

10           **(1) Assist in developing an annual patient care unit and shift**  
 11           **based nurse staffing plan, with protocols for adjusting staffing**  
 12           **levels.**

13           **(2) Provide the nurse staffing plan to all nurses who work at**  
 14           **the hospital.**

15           **(3) Provide employees and contract workers of the hospital**  
 16           **the opportunity to report to the council any deviations where**  
 17           **the nurse personnel assignment in a patient care unit does not**  
 18           **comply with the adopted staffing plan.**

19           **(4) Meet at least quarterly to review deviation reports that**  
 20           **have been filed by employees or contract workers of the**  
 21           **hospital.**

22           **(e) A hospital may not take any of the following actions against**  
 23           **an employee or contract worker for filing a deviation report under**  
 24           **subsection (d):**

25           **(1) Dismissing the employee or contract worker from**  
 26           **employment.**

27           **(2) Withholding salary increases or employment related**  
 28           **benefits.**

29           **(3) Transferring or reassigning the employee or contract**  
 30           **worker.**

31           **(4) Denying a promotion that the employee or contract**  
 32           **worker otherwise would have received.**

33           **(5) Demoting the employee or contract worker.**

34           SECTION 4. IC 16-21-2-19 IS ADDED TO THE INDIANA CODE  
 35           AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
 36           1, 2023]: **Sec. 19. (a) Beginning January 1, 2024, a hospital or**  
 37           **ambulatory outpatient surgical center must inform a current**  
 38           **employee and prospective employee of the following:**

39           **(1) The hours and on call requirements stated in the**  
 40           **employee's employment agreement with the hospital or**  
 41           **ambulatory outpatient surgical center.**

42           **(2) That the hospital or ambulatory outpatient surgical center**



1           **may not require the employee to work in excess of the hours**  
2           **and on call requirements stated in the terms of the employee's**  
3           **employment agreement without the employee's consent except**  
4           **for reasons set forth in this section.**

5           **(3) The employee's protections under this section.**

6           **(b) A hospital or ambulatory outpatient surgery center may not**  
7           **require a registered nurse or licensed practical nurse to work**  
8           **mandatory overtime, except for the following:**

9           **(1) Voluntary work with the employee's consent documented**  
10           **in writing.**

11           **(2) A declared national, state, or local disaster or catastrophic**  
12           **event or the implementation of a hospital's or ambulatory**  
13           **outpatient surgery center's disaster plan that will**  
14           **substantially affect or increase the need for health care**  
15           **services.**

16           **(3) Any circumstance in which patient care needs require the**  
17           **continuation of a nurse's skills through the completion of a**  
18           **procedure.**

19           **(c) A hospital or ambulatory outpatient surgery center may not**  
20           **take any of the following actions against an employee for failing to**  
21           **consent to work mandatory overtime:**

22           **(1) Dismissing the employee from employment.**

23           **(2) Withholding salary increases or employment related**  
24           **benefits.**

25           **(3) Transferring or reassigning the employee.**

26           **(4) Denying a promotion that the employee otherwise would**  
27           **have received.**

28           **(5) Demoting the employee.**

29           **SECTION 5. IC 16-28-2-13 IS ADDED TO THE INDIANA CODE**  
30           **AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY**  
31           **1, 2023]: Sec. 13. (a) Beginning January 1, 2024, a health facility or**  
32           **residential care facility must inform a current employee and**  
33           **prospective employee of the following:**

34           **(1) The hours and on call requirements stated in the**  
35           **employee's employment agreement with the health facility or**  
36           **residential care facility.**

37           **(2) That the health facility or residential care facility may not**  
38           **require the employee to work in excess of the hours and on**  
39           **call requirements stated in the terms of the employee's**  
40           **employment agreement without the employee's consent except**  
41           **for reasons set forth in this section.**

42           **(3) The employee's protections under this section.**



- 1           **(b) A health facility or residential care facility may not require**
- 2 **a registered nurse or licensed practical nurse to work mandatory**
- 3 **overtime, except for the following:**
- 4           **(1) Voluntary work with the employee's consent documented**
- 5 **in writing.**
- 6           **(2) A declared national, state, or local disaster or catastrophic**
- 7 **event or the implementation of a health facility's or**
- 8 **residential care facility's disaster plan that will substantially**
- 9 **affect or increase the need for health care services.**
- 10          **(3) Any circumstance in which patient care needs require the**
- 11 **continuation of a nurse's skills through the completion of a**
- 12 **procedure.**
- 13          **(c) A health facility or residential care facility may not take any**
- 14 **of the following actions against an employee for failing to consent**
- 15 **to work mandatory overtime:**
- 16          **(1) Dismissing the employee from employment.**
- 17          **(2) Withholding salary increases or employment related**
- 18 **benefits.**
- 19          **(3) Transferring or reassigning the employee.**
- 20          **(4) Denying a promotion that the employee otherwise would**
- 21 **have received.**
- 22          **(5) Demoting the employee.**

