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# HOUSE BILL No. 1288

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 27-8-5-2.5; IC 27-8-5-19.

**Synopsis:** Health insurance waivers. Provides that an individual policy of accident and sickness insurance or a group policy of accident and sickness insurance under which a certificate of coverage is issued to an individual member of an association or a discretionary group may contain a multiple year waiver of coverage that does not exceed ten years for a specified condition, if the insurer meets certain requirements. Specifies that an offer of coverage under a policy that includes a waiver does not preclude eligibility for an Indiana comprehensive health insurance association policy for an individual who is otherwise eligible.

**Effective:** Upon passage.

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January 11, 2000, read first time and referred to Committee on Insurance, Corporations and Small Business.

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Introduced

Second Regular Session 111th General Assembly (2000)

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 1999 General Assembly.

## HOUSE BILL No. 1288

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

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

- 1 SECTION 1. IC 27-8-5-2.5 IS AMENDED TO READ AS  
2 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2.5. (a) As used in  
3 this section, the term "policy of accident and sickness insurance" does  
4 not include the following:
- 5 (1) Accident only, credit, dental, vision, Medicare supplement,  
6 long term care, or disability income insurance.
  - 7 (2) Coverage issued as a supplement to liability insurance.
  - 8 (3) Automobile medical payment insurance.
  - 9 (4) A specified disease policy issued as an individual policy.
  - 10 (5) A limited benefit health insurance policy issued as an  
11 individual policy.
  - 12 (6) A short term insurance plan that:  
13 (A) may not be renewed; and  
14 (B) has a duration of not more than six (6) months.
  - 15 (7) A policy that provides a stipulated daily, weekly, or monthly  
16 payment to an insured during hospital confinement, without  
17 regard to the actual expense of the confinement.



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- 1 (8) Worker's compensation or similar insurance.  
 2 (9) A student health insurance policy.
- 3 (b) The benefits provided by an individual policy of accident and  
 4 sickness insurance may not be excluded, limited, or denied for more  
 5 than twelve (12) months after the effective date of the coverage  
 6 because of a preexisting condition of the individual.
- 7 (c) An individual policy of accident and sickness insurance may not  
 8 define a preexisting condition, a rider, or an endorsement more  
 9 restrictively than as:
- 10 (1) a condition that would have caused an ordinarily prudent  
 11 person to seek medical advice, diagnosis, care, or treatment  
 12 during the twelve (12) months immediately preceding the  
 13 effective date of enrollment in the plan;
- 14 (2) a condition for which medical advice, diagnosis, care, or  
 15 treatment was recommended or received during the twelve (12)  
 16 months immediately preceding the effective date of enrollment in  
 17 the plan; or
- 18 (3) a pregnancy existing on the effective date of enrollment in the  
 19 plan.
- 20 (d) An insurer shall reduce the period allowed for a preexisting  
 21 condition exclusion described in subsection (b) by the amount of time  
 22 the individual has continuously served under a preexisting condition  
 23 clause for a policy of accident and sickness insurance issued under  
 24 IC 27-8-15 if the individual applies for a policy under this chapter not  
 25 more than thirty (30) days after coverage under a policy of accident and  
 26 sickness insurance issued under IC 27-8-15 expires.
- 27 **(e) An individual policy of accident and sickness insurance may**  
 28 **contain a multiple year waiver of coverage, not to exceed ten (10)**  
 29 **years, for a specified condition if:**
- 30 **(1) the insurer provides to the applicant before issuance of the**  
 31 **policy written notice explaining the waiver of coverage for the**  
 32 **specified condition and any complications that arise from the**  
 33 **specified condition;**
- 34 **(2) the offer of coverage includes the waiver in a separate**  
 35 **section stating in bold print that the applicant is receiving**  
 36 **coverage with an exception for the waived condition;**
- 37 **(3) the offer of coverage does not include more than two (2)**  
 38 **waivers;**
- 39 **(4) the waiver period is concurrent with and not in addition to**  
 40 **any applicable preexisting condition limitation or**  
 41 **exclusionary period;**
- 42 **(5) the insurer agrees to review a waiver upon request if the**

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1 individual has not received or had recommended to the  
 2 individual medical advice, diagnosis, care, or treatment  
 3 related to the waived condition for at least two (2) years; and  
 4 (6) the insurer discloses to the applicant that the applicant  
 5 may decline the offer of coverage and apply for coverage  
 6 under an Indiana comprehensive health insurance association  
 7 policy under IC 27-8-10.

8 The insurer shall require an applicant to initial the notice under  
 9 subdivision (1) and the waiver under subdivision (2) to  
 10 acknowledge acceptance of the waiver of coverage. An offer of  
 11 coverage under a policy that includes a waiver does not preclude  
 12 eligibility for coverage under an Indiana comprehensive health  
 13 insurance association policy if the applicant meets all other criteria  
 14 under IC 27-8-10.

15 SECTION 2. IC 27-8-5-19, AS AMENDED BY P.L.207-1999,  
 16 SECTION 4, AND AS AMENDED BY P.L.233-1999, SECTION 10,  
 17 IS AMENDED AND CORRECTED TO READ AS FOLLOWS  
 18 [EFFECTIVE UPON PASSAGE]: Sec. 19. (a) As used in this chapter,  
 19 "late enrollee" has the meaning set forth in 26 U.S.C. 9801(b)(3).

20 (b) A policy of group accident and sickness insurance may not be  
 21 issued to a group that has a legal situs in Indiana unless it contains in  
 22 substance:

- 23 (1) the provisions described in subsection (c); or  
 24 (2) provisions that, in the opinion of the commissioner, are:  
 25 (A) more favorable to the persons insured; or  
 26 (B) at least as favorable to the persons insured and more  
 27 favorable to the policyholder;  
 28 than the provisions set forth in subsection (c).

29 (c) The provisions referred to in subsection (b)(1) are as follows:

- 30 (1) A provision that the policyholder is entitled to a grace period  
 31 of thirty-one (31) days for the payment of any premium due  
 32 except the first, during which grace period the policy will  
 33 continue in force, unless the policyholder has given the insurer  
 34 written notice of discontinuance in advance of the date of  
 35 discontinuance and in accordance with the terms of the policy.  
 36 The policy may provide that the policyholder is liable to the  
 37 insurer for the payment of a pro rata premium for the time the  
 38 policy was in force during the grace period. A provision under  
 39 this subdivision may provide that the insurer is not obligated to  
 40 pay claims incurred during the grace period until the premium  
 41 due is received.

- 42 (2) A provision that the validity of the policy may not be

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1           contested, except for nonpayment of premiums, after the policy  
 2           has been in force for two (2) years after its date of issue, and that  
 3           no statement made by a person covered under the policy relating  
 4           to the person's insurability may be used in contesting the validity  
 5           of the insurance with respect to which the statement was made,  
 6           unless:

7           (A) the insurance has not been in force for a period of two (2)  
 8           years or longer during the person's lifetime; or

9           (B) the statement is contained in a written instrument signed  
 10          by the insured person.

11          However, a provision under this subdivision may not preclude the  
 12          assertion at any time of defenses based upon a person's  
 13          ineligibility for coverage under the policy or based upon other  
 14          provisions in the policy.

15          (3) A provision that a copy of the application, if there is one, of  
 16          the policyholder must be attached to the policy when issued, that  
 17          all statements made by the policyholder or by the persons insured  
 18          are to be deemed representations and not warranties, and that no  
 19          statement made by any person insured may be used in any contest  
 20          unless a copy of the instrument containing the statement is or has  
 21          been furnished to the insured person or, in the event of death or  
 22          incapacity of the insured person, to the insured person's  
 23          beneficiary or personal representative.

24          (4) A provision setting forth the conditions, if any, under which  
 25          the insurer reserves the right to require a person eligible for  
 26          insurance to furnish evidence of individual insurability  
 27          satisfactory to the insurer as a condition to part or all of the  
 28          person's coverage.

29          (5) A provision specifying any additional exclusions or limitations  
 30          applicable under the policy with respect to a disease or physical  
 31          condition of a person that existed before the effective date of the  
 32          person's coverage under the policy and that is not otherwise  
 33          excluded from the person's coverage by name or specific  
 34          description effective on the date of the person's loss. An exclusion  
 35          or limitation that must be specified in a provision under this  
 36          subdivision:

37          (A) may apply only to a disease or physical condition for  
 38          which medical advice, diagnosis, care, or treatment was  
 39          received by the person or recommended to the person during  
 40          the six (6) months before the enrollment date of the person's  
 41          coverage; and

42          (B) may not apply to a loss incurred or disability beginning

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1 after the earlier of:

- 2 (i) the end of a continuous period of twelve (12) months  
 3 beginning on or after the enrollment date of the person's  
 4 coverage; or  
 5 (ii) the end of a continuous period of eighteen (18) months  
 6 beginning on the enrollment date of the person's coverage if  
 7 the person is a late enrollee.

8 *This subdivision applies only to group policies of accident and*  
 9 *sickness insurance other than those described in section 2.5(a)(1)*  
 10 *through 2.5(a)(8) of this chapter.*

11 (6) *A provision specifying any additional exclusions or*  
 12 *limitations applicable under the policy with respect to a disease*  
 13 *or physical condition of a person that existed before the effective*  
 14 *date of the person's coverage under the policy. An exclusion or*  
 15 *limitation that must be specified in a provision under this*  
 16 *subdivision:*

17 (A) *may apply only to a disease or physical condition for*  
 18 *which medical advice or treatment was received by the person*  
 19 *during a period of three hundred sixty-five (365) days before*  
 20 *the effective date of the person's coverage; and*

21 (B) *may not apply to a loss incurred or disability beginning*  
 22 *after the earlier of the following:*

23 (i) *The end of a continuous period of three hundred*  
 24 *sixty-five (365) days, beginning on or after the effective date*  
 25 *of the person's coverage, during which the person did not*  
 26 *receive medical advice or treatment in connection with the*  
 27 *disease or physical condition.*

28 (ii) *The end of the two (2) year period beginning on the*  
 29 *effective date of the person's coverage.*

30 *This subdivision applies only to group policies of accident and*  
 31 *sickness insurance described in section 2.5(a)(1) through*  
 32 *2.5(a)(8) of this chapter.*

33 ~~(6)~~ (7) *If premiums or benefits under the policy vary according to*  
 34 *a person's age, a provision specifying an equitable adjustment of:*

- 35 (A) *premiums;*  
 36 (B) *benefits; or*  
 37 (C) *both premiums and benefits;*

38 *to be made if the age of a covered person has been misstated. A*  
 39 *provision under this subdivision must contain a clear statement of*  
 40 *the method of adjustment to be used.*

41 ~~(7)~~ (8) *A provision that the insurer will issue to the policyholder,*  
 42 *for delivery to each person insured, a certificate setting forth a*

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- 1 statement that:
- 2 (A) explains the insurance protection to which the person
- 3 insured is entitled;
- 4 (B) indicates to whom the insurance benefits are payable; and
- 5 (C) explains any family member's or dependent's coverage
- 6 under the policy.
- 7 ~~(8)~~ (9) A provision stating that written notice of a claim must be
- 8 given to the insurer within twenty (20) days after the occurrence
- 9 or commencement of any loss covered by the policy, but that a
- 10 failure to give notice within the twenty (20) day period does not
- 11 invalidate or reduce any claim if it can be shown that it was not
- 12 reasonably possible to give notice within that period and that
- 13 notice was given as soon as was reasonably possible.
- 14 ~~(9)~~ (10) A provision stating that:
- 15 (A) the insurer will furnish to the person making a claim, or to
- 16 the policyholder for delivery to the person making a claim,
- 17 forms usually furnished by the insurer for filing proof of loss;
- 18 and
- 19 (B) if the forms are not furnished within fifteen (15) days after
- 20 the insurer received notice of a claim, the person making the
- 21 claim will be deemed to have complied with the requirements
- 22 of the policy as to proof of loss upon submitting, within the
- 23 time fixed in the policy for filing proof of loss, written proof
- 24 covering the occurrence, character, and extent of the loss for
- 25 which the claim is made.
- 26 ~~(10)~~ (11) A provision stating that:
- 27 (A) in the case of a claim for loss of time for disability, written
- 28 proof of the loss must be furnished to the insurer within ninety
- 29 (90) days after the commencement of the period for which the
- 30 insurer is liable, and that subsequent written proofs of the
- 31 continuance of the disability must be furnished to the insurer
- 32 at reasonable intervals as may be required by the insurer;
- 33 (B) in the case of a claim for any other loss, written proof of
- 34 the loss must be furnished to the insurer within ninety (90)
- 35 days after the date of the loss; and
- 36 (C) the failure to furnish proof within the time required under
- 37 clause (A) or (B) does not invalidate or reduce any claim if it
- 38 was not reasonably possible to furnish proof within that time,
- 39 and if proof is furnished as soon as reasonably possible but
- 40 (except in case of the absence of legal capacity of the
- 41 claimant) no later than one (1) year from the time proof is
- 42 otherwise required under the policy.

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- 1           ~~(H)~~ (12) A provision that:
- 2           (A) all benefits payable under the policy (other than benefits
- 3           for loss of time) will be paid within forty-five (45) days after
- 4           the insurer receives all information required to determine
- 5           liability under the terms of the policy; and
- 6           (B) subject to due proof of loss, all accrued benefits under the
- 7           policy for loss of time will be paid not less frequently than
- 8           monthly during the continuance of the period for which the
- 9           insurer is liable, and any balance remaining unpaid at the
- 10          termination of the period for which the insurer is liable will be
- 11          paid as soon as possible after receipt of the proof of loss.
- 12          ~~(I2)~~ (13) A provision that benefits for loss of life of the person
- 13          insured are payable to the beneficiary designated by the person
- 14          insured. However, if the policy contains conditions pertaining to
- 15          family status, the beneficiary may be the family member specified
- 16          by the policy terms. In either case, payment of benefits for loss of
- 17          life is subject to the provisions of the policy if no designated or
- 18          specified beneficiary is living at the death of the person insured.
- 19          All other benefits of the policy are payable to the person insured.
- 20          The policy may also provide that if any benefit is payable to the
- 21          estate of a person or to a person who is a minor or otherwise not
- 22          competent to give a valid release, the insurer may pay the benefit,
- 23          up to an amount of five thousand dollars (\$5,000), to any relative
- 24          by blood or connection by marriage of the person who is deemed
- 25          by the insurer to be equitably entitled to the benefit.
- 26          ~~(I3)~~ (14) A provision that the insurer has the right and must be
- 27          allowed the opportunity to:
- 28          (A) examine the person of the individual for whom a claim is
- 29          made under the policy when and as often as the insurer
- 30          reasonably requires during the pendency of the claim; and
- 31          (B) conduct an autopsy in case of death if it is not prohibited
- 32          by law.
- 33          ~~(I4)~~ (15) A provision that no action at law or in equity may be
- 34          brought to recover on the policy less than sixty (60) days after
- 35          proof of loss is filed in accordance with the requirements of the
- 36          policy and that no action may be brought at all more than three (3)
- 37          years after the expiration of the time within which proof of loss is
- 38          required by the policy.
- 39          ~~(I5)~~ (16) In the case of a policy insuring debtors, a provision that
- 40          the insurer will furnish to the policyholder, for delivery to each
- 41          debtor insured under the policy, a certificate of insurance
- 42          describing the coverage and specifying that the benefits payable

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1 will first be applied to reduce or extinguish the indebtedness.  
 2 ~~(16)~~ (17) If the policy provides that hospital or medical expense  
 3 coverage of a dependent child of a group member terminates upon  
 4 the child's attainment of the limiting age for dependent children  
 5 set forth in the policy, a provision that the child's attainment of the  
 6 limiting age does not terminate the hospital and medical coverage  
 7 of the child while the child is:

- 8 (A) incapable of self-sustaining employment because of  
 9 mental retardation or mental or physical disability; and  
 10 (B) chiefly dependent upon the group member for support and  
 11 maintenance.

12 A provision under this subdivision may require that proof of the  
 13 child's incapacity and dependency be furnished to the insurer by  
 14 the group member within one hundred twenty (120) days of the  
 15 child's attainment of the limiting age and, subsequently, at  
 16 reasonable intervals during the two (2) years following the child's  
 17 attainment of the limiting age. The policy may not require proof  
 18 more than once per year in the time more than two (2) years after  
 19 the child's attainment of the limiting age. This subdivision does  
 20 not require an insurer to provide coverage to a mentally retarded  
 21 or mentally or physically disabled child who does not satisfy the  
 22 requirements of the group policy as to evidence of insurability or  
 23 other requirements for coverage under the policy to take effect. In  
 24 any case, the terms of the policy apply with regard to the coverage  
 25 or exclusion from coverage of the child.

26 ~~(17)~~ (18) A provision that complies with the group portability and  
 27 guaranteed renewability provisions of the federal Health  
 28 Insurance Portability and Accountability Act of 1996  
 29 (P.L.104-191).

30 **(19) Notwithstanding subdivision (5), a provision specifying a**  
 31 **multiple year waiver of coverage that does not exceed ten (10)**  
 32 **years for a specified condition applicable under the policy. A**  
 33 **multiple year waiver of coverage for a specified condition that**  
 34 **must be specified under this subdivision may be included in a**  
 35 **policy of group accident and sickness insurance under which**  
 36 **a certificate of coverage is issued to an individual member of**  
 37 **an association or a discretionary group if:**

- 38 (A) the insurer provides to the applicant before issuance of  
 39 the policy written notice explaining the waiver of coverage  
 40 for the specified condition and any complications that arise  
 41 from the specified condition;  
 42 (B) the offer of coverage includes the waiver in a separate



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1            **section stating in bold print that the applicant is receiving**  
 2            **coverage with an exception for the waived condition;**

3            **(C) the offer of coverage does not include more than two**  
 4            **(2) waivers;**

5            **(D) the waiver period is concurrent with and not in**  
 6            **addition to any applicable preexisting condition limitation**  
 7            **or exclusionary period;**

8            **(E) the insurer agrees to review a waiver upon request if**  
 9            **the individual has not received or had recommended to the**  
 10           **individual medical advice, diagnosis, care, or treatment**  
 11           **related to the waived condition for at least two (2) years;**  
 12           **and**

13           **(F) the insurer discloses to the applicant that the applicant**  
 14           **may decline the offer of coverage and apply for coverage**  
 15           **under an Indiana comprehensive health insurance**  
 16           **association policy under IC 27-8-10.**

17           **The insurer shall require an applicant to initial the notice**  
 18           **under clause (A) and the waiver under clause (B) to**  
 19           **acknowledge acceptance of the waiver of coverage. An offer**  
 20           **of coverage under a policy that includes a waiver does not**  
 21           **preclude eligibility for coverage under an Indiana**  
 22           **comprehensive health insurance association policy if the**  
 23           **applicant meets all other criteria under IC 27-8-10.**

24           (d) Subsection (c)(5), ~~(c)(7)~~, (c)(8), and ~~(c)(12)~~ (c)(13) do not apply  
 25           to policies insuring the lives of debtors. The standard provisions  
 26           required under section 3(a) of this chapter for individual accident and  
 27           sickness insurance policies do not apply to group accident and sickness  
 28           insurance policies.

29           (e) If any policy provision required under subsection (c) is in whole  
 30           or in part inapplicable to or inconsistent with the coverage provided by  
 31           an insurer under a particular form of policy, the insurer, with the  
 32           approval of the commissioner, shall delete the provision from the  
 33           policy or modify the provision in such a manner as to make it  
 34           consistent with the coverage provided by the policy.

35           **SECTION 3. [EFFECTIVE UPON PASSAGE] IC 27-8-5-2.5 and**  
 36           **IC 27-8-5-19, both as amended by this act, apply to a policy of**  
 37           **accident and sickness insurance that is issued, delivered, amended,**  
 38           **or renewed after the effective date of this act.**

39           **SECTION 4. An emergency is declared for this act.**

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