

# FAEGRE BAKER DANIELS

## 2019 Legislative Update #4

### Indiana Society of Anesthesiologists



*February 17, 2019*

The 2019 Indiana General Assembly is heading into its final week of committee hearings on bills in their house of origin. Tuesday (2/19) is the deadline for bills to be reported out of House committees, and Thursday (2/21) is the last day for committee reports in the Senate. This means that any bill that hasn't been set for a hearing and vote is likely dead for the session.

Last week, the House version of the APRN bill – **House Bill 1097** – was amended and approved by the House Public Health Committee on a 9-3 vote. Interestingly, the only “no” votes came from the three committee members who have a “Dr.” in front of their names: Dr. Rita Fleming, an OB-GYN, Dr. Brad Barrett, a retired surgeon, and Dr. Denny Zent, a retired dentist.

The amendment approved by the committee requires the collaborating physician to review at least 10% of the APRN's prescriptive charts during the first year of the practice agreement and at least 5% in the second and third years. This differs from **Senate Bill 394**, which sets the threshold for review at 5% for all three years. The bill was also amended with language from another measure that allows an APRN who had primary responsibility for the treatment and care of a deceased individual for a period longer than six months and pronounced the time of death for the deceased individual to enter the record of death into the Indiana death registration system. HB 1097 will be eligible for floor amendment tomorrow and House passage on Tuesday.

Also last week, **Senate Bill 162** (insurance coverage for chronic pain management) was heard in the Senate Insurance and Financial Institutions Committee. The bill was tabled until this week's meeting, when it is expected to be amended to delete the requirement that a practitioner prescribe other forms of treatment before prescribing an opioid. The amendment would also change the definition of “chronic pain management” to read as follows: “[E]vidence based health care products and services intended to relieve pain that has lasted for at least three (3) months. The term includes: (1) prescription drugs; (2) physical therapy; (3) occupational therapy; and (4) chiropractic care.” The bill is expected to be approved by the committee on Wednesday.

Below is a list of bills of interest to ISA that are presumed dead for the session. A tracking list of “live” bills follows. Please let us know if you have any questions or need additional information.

## **“DEAD” BILLS**

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- HB 1259 PHYSICIAN ASSISTANTS** (DAVISSON S) Changes the role of a supervising physician to that of a collaborating physician.
- HB 1633 LICENSURE OF NATUROPATHIC PHYSICIANS** (LEHE D) Provides for the licensure of practitioners of naturopathic medicine.
- HB 1657 LICENSURE OF NATUROPATHIC PHYSICIANS** (ZENT D) Provides for the licensure of naturopathic physicians.
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- SB 291 PRACTICE OF NATUROPATHIC MEDICINE STUDY** (NIEZGODSKI D) Urges the legislative council to assign to an interim study committee the task of studying issues related to the creation of a license to practice naturopathic medicine in Indiana.
- SB 515 LICENSURE OF NATUROPATHIC PHYSICIANS** (NIEZGODSKI D) Provides for the licensure of naturopathic physicians.
- SB 576 REGULATION OF CERTAIN PROFESSIONS AND OCCUPATIONS** (MERRITT J) Eliminates the professional licensing agency (PLA). Establishes the health professions licensing agency (HPLA) within the state department of health to license health professions.
- HB 1179 PRIOR AUTHORIZATION OF PRESCRIPTION DRUGS** (DAVISSON S) Requires a health plan that denies prior authorization for a prescription drug to provide certain information in the notice of denial.
- HB 1228 PRESCRIPTION DRUG IMPORTATION STUDY** (CHYUNG C) Requires the state department of health to conduct a study and report to the legislative council concerning a state prescription drug importation program through which the state would import certain prescription drugs, including insulin, from Canada for Indiana consumers.
- HB 1307 HEALTH CARE SERVICE COST SHARING** (BACON R) Requires a state employee health plan, an accident and sickness insurer, and a health maintenance organization to count cost sharing payments made on behalf of a covered individual toward the covered individual's cost sharing amount.
- HB 1357 NONCOMPETE CLAUSES PROHIBITED IN PHYSICIAN CONTRACTS** (MORRIS R) Provides that an employer hospital may not require that an employee physician or a prospective employee physician sign a covenant not to compete against the employer hospital for any period of time after the termination of employment with the employer hospital.
- HB 1505 HEALTH CARE SERVICE COST** (HOSTETTLER M) Requires health care providers to provide to patients the cost of scheduled health care services.
- HB 1570 PRESCRIPTION PRICE** (BAIRD B) Requires a retail pharmacy, before dispensing a prescription, to inform an insured patient of the cost of the drug or device without insurance or an applicable discount, if the cost of the drug or device is less than the copayment cost to the patient using the insurance or an applicable discount.
- SB 312 MANDATORY ELECTRONIC PRESCRIPTIONS** (MERRITT J) Requires dentists, physicians, advanced practice registered nurses, optometrists, physician assistants, and podiatrists to issue a prescription in an electronic format and by electronic transmission after June 30, 2019.
- SB 573 HOSPITAL FACILITY CERTIFICATE OF NEED** (RUCKELSHAUS J) Establishes a hospital certificate of need administered by the state department of health. Sets forth requirements of the program and requirements for owners of hospital construction projects.
- HB 1184 END OF LIFE OPTIONS** (PIERCE M) Allows individuals with a terminal illness who meet certain requirements to make a request to an attending physician for medication that the individual may self-administer to end the individual's life.

# "LIVE" BILLS

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## SCOPE OF PRACTICE & LICENSURE

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**HB 1097 ADVANCED PRACTICE REGISTERED NURSES (BACON R)** Allows an advanced practice registered nurse who: (1) had primary responsibility for the treatment and care of a deceased individual for a period longer than six months; and (2) pronounced the time of death for the deceased individual; to enter or sign a record on a death into the Indiana death registration system. Specifies "practitioner" for purposes of a practice agreement with an advanced practice registered nurse. Sets forth requirements that must be met in order for an advanced practice registered nurse to operate without a practice agreement. Requires the Indiana state board of nursing to report to the general assembly before October 1, 2019. Makes a conforming change.

*Current Status:* 2/18/2019 - House Bills on Second Reading

*State Bill Page:* [HB 1097](#)

**HB 1248 PHARMACY MATTERS (DAVISSON S)** Sets out the conditions for emergency pharmaceutical refills and prescription adaptations. Permits a pharmacist to prescribe certain devices or supplies approved by the federal Food and Drug Administration. Provides that if a pharmacist prescribes certain devices or supplies, the pharmacist must provide the patient with a written advance beneficiary notice that is signed by the patient and that states that the patient may not be eligible for reimbursement for the device or supply. Requires that the pharmacy must keep a copy of the patient's advance beneficiary notice. Changes the role of a supervising physician to that of a collaborating physician. Removes prescribing requirement language of at least 30 contact hours in pharmacology by a program approved by the committee and requires the physician assistant to have graduated from an accredited physician assistant program and have received the required pharmacology training from the program. Removes the following requirements concerning prescribing by a physician assistant: (1) A physician assistant prescribing a controlled substance to have practiced as a physician assistant for at least 1,800 hours. (2) Prescribing authority being delegated to a physician assistant to be expressly delegated in writing by the physician. (3) Limiting the amount prescribed to an amount not to exceed a 30 day supply. Removes a requirement that a physician review at least 25% of the patient's records in a physician assistant's first year of practice. Requires the review of at least 10% of the patient records concerning the prescribing or administering of a drug (instead of only certain scheduled drugs) for the first year in which a physician assistant obtains authority to prescribe a drug. Removes certain chart review requirements and a statement to the board by the physician.

*Current Status:* 2/18/2019 - House Bills on Second Reading

*State Bill Page:* [HB 1248](#)

**HB 1269 BOARDS (GUTWEIN D)** Provides that members appointed to boards staffed by the professional licensing agency: (1) have four year term limits; (2) may serve multiple terms; (3) serve at the pleasure of the governor; (4) must be removed in certain instances; and (5) in certain instances, may not have more than two members from the same congressional district. Restructures the membership of the following boards: (1) Indiana board of accountancy. (2) Indiana board of optometry. (3) Speech-language pathology and audiology board. (4) Board of registration for architects and landscape architects. (5) Indiana plumbing commission. (6) Home inspectors licensing board. (7) Board of chiropractic examiners. (8) State board of registration for professional surveyors. (9) Indiana athletic trainers board. (10) State psychology board. (11) State board of funeral and cemetery service. (12) Board of podiatric medicine. (13) Indiana state board of health facility administrators. (14) Manufactured home installers. (15) Indiana auctioneer commission. (16) Private investigator and security guard licensing board. (17) Midwifery committee. (18) Behavioral health and human services licensing board. (19) Real estate appraiser licensure and certification board. (20) State board of massage therapy. Repeals the Indiana dietitians certification board and transfers the duties to the medical licensing board of Indiana. Repeals the boiler and pressure vessel rules board and regulated amusement device safety board and transfers all duties to the fire prevention and building safety commission. Provides that the department of homeland security may grant variances to rules adopted

by the fire prevention and building safety commission, the Indiana emergency medical services commission, and the board of firefighting personnel standards and education. Requires the state building commissioner to create a data base cataloging variance rulings. (Current law allows the commissioner to create the data base.) Repeals the counterterrorism and security council and the emergency alert system advisory committee. Establishes the governor's security council. Abolishes the emergency medical commission's technical advisory committee. Makes technical changes.

*All Bill Status:* 2/12/2019 - Senate sponsor: Senator Head  
2/12/2019 - Third reading passed; Roll Call 163: yeas 90, nays 0

*State Bill Page:* [HB 1269](#)

**HB 1344 NURSE LICENSURE COMPACT (CLERE E)** Specifies requirements for participation by the state in a multistate nurse licensure compact, including provisions concerning: (1) nurse qualifications, practice, and participation; (2) a compact commission; (3) interstate commission and state board of nursing authority and rulemaking; (4) a coordinated licensure information system; (5) oversight and enforcement; and (6) termination or withdrawal from the compact.

*All Bill Status:* 1/31/2019 - Senate sponsors: Senators Zay, Charbonneau and Grooms  
1/31/2019 - Third reading passed; Roll Call 77: yeas 96, nays 0

*State Bill Page:* [HB 1344](#)

**HB 1569 PROFESSIONAL LICENSING MATTERS (ZENT D)** Provides for an annual renewal process for appraisal management companies. Allows for a hearing aid dealer in training to fit or dispense hearing aids while under the supervision and direction of an individual who holds a temporary or valid hearing aid dealer certificate of registration. Defines a conviction of concern. Amends a provision concerning the way a conviction for a crime of concern affects an individual with a professional license or certification. Removes a provision that requires a dental hygienist to obtain and maintain a national provider identifier number. Allows for the state board of dentistry (board) to issue dental residency permits and dental faculty licenses. (Current law allows for the board to issue limited dental residency permits and limited faculty licenses.) Removes a provision that prohibits an Indiana dental school from having more than 10% of its full-time faculty licensed with an instructor's license. Makes various changes to provisions concerning how a conviction for a crime of concern affects an individual with a professional license or certification

*Current Status:* 2/7/2019 - Senate sponsor: Senator Perfect

*All Bill Status:* 2/7/2019 - Third reading passed; Roll Call 117: yeas 93, nays 0

*State Bill Page:* [HB 1569](#)

**SB 394 ADVANCED PRACTICE REGISTERED NURSES (CHARBONNEAU E)** Provides that an advanced practice registered nurse with prescriptive authority and who has operated under a practice agreement with a practitioner for at least three years may operate without a practice agreement if certain conditions are met. Amends the hospital governing board requirements for the manner in which an advanced practice registered nurse who operates in the hospital will interact with other practitioners. Makes a conforming change. Requires the Indiana state board of nursing to study and report to the general assembly before October 1, 2019, concerning the clinical training of advanced practice registered nurses and information concerning implementation of allowing advanced practice registered nurses to operate without a practice agreement.

*All Bill Status:* 2/12/2019 - Cosponsor: Representative Kirchofer  
2/12/2019 - House sponsor: Representative Bacon  
2/12/2019 - Third reading passed; Roll Call 111: yeas 43, nays 5

*State Bill Page:* [SB 394](#)

**SB 436 NURSE LICENSURE COMPACT (ZAY A)** Specifies requirements for participation by the state in a multistate nurse licensure compact, including provisions concerning: (1) nurse qualifications, practice, and participation; (2) a compact commission; (3) interstate commission and state board of nursing authority and rulemaking; (4) a coordinated licensure information system; (5) oversight and enforcement; and (6) termination or withdrawal from the compact.

*Current Status:* 2/14/2019 - Senate Committee recommends passage, as amended Yeas: 13; Nays: 0

*State Bill Page:* [SB 436](#)

**SB 586 REGULATION OF PHYSICAL THERAPISTS (MESSMER M)** Establishes the Indiana board of physical therapy (board). (Current law regulates physical therapy under the medical licensing board, with certain functions delegated to the Indiana physical therapy committee.) Creates a new definition of "physical therapy" and adds or amends other definitions. Amends certain prohibited acts to include business entities. Adds physician assistants and nurse practitioners to the list of persons who may issue an order to a physical therapist. Allows a physical therapist to treat a patient for 42 days without a referral from a provider. (Current law allows treatment for 24 days.) Provides that certain individuals are exempt from license and certification requirements. Adds two physical therapists and a physical therapist assistant to the board and removes the physician member. Establishes requirements for physical therapists and physical therapist assistants who have been educated outside the United States. Establishes requirements to sit for the licensure and certification examinations. Allows the applicant to take the examination not more than six times. Allows the board to disqualify an applicant for certain acts related to the examination. Requires a person who seeks reinstatement for a lapsed license to demonstrate evidence of continuing competence. Establishes certain responsibilities for physical therapists. Allows a physical therapist assistant to work under a physical therapist. Transfers the rules, duties, and records concerning physical therapy from the medical licensing board to the board. Makes conforming changes.

*Current Status:* 2/18/2019 - Senate Bills on Second Reading

*State Bill Page:* [SB 586](#)

## **INSURANCE, MEDICAID & HEALTH CARE COSTS**

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**HB 1029 PRESCRIPTION DRUG PRICING STUDY COMMITTEE (SHACKLEFORD R)** Urges the legislative council to assign to the interim study committee on public health, behavioral health, and human services the task of studying issues consumers face related to prescription drug pricing, access, and costs.

*Current Status:* 2/12/2019 - Senate sponsors: Senators Charbonneau and Breaux

*All Bill Status:* 2/12/2019 - Third reading passed; Roll Call 169: yeas 91, nays 0

*State Bill Page:* [HB 1029](#)

**HB 1308 MEDICAID RECOVERY AUDITS (BACON R)** Sets forth requirements for Medicaid recovery audits of Medicaid providers.

*Current Status:* 2/12/2019 - Senate sponsors: Senators Bassler and Becker

*All Bill Status:* 2/12/2019 - Third reading passed; Roll Call 162: yeas 90, nays 0

*State Bill Page:* [HB 1308](#)

**SB 8 STUDY OF THE GROWTH OF HEALTH CARE COSTS (RUCKELSHAUS J)** Urges the legislative council to assign to an appropriate interim study committee for study during the 2019 interim of the general assembly the factors that are contributing to the growth of health care costs. Requires the interim study committee to report and make any recommendations to the legislative council not later than November 2019.

*Current Status:* 2/18/2019 - Senate Bills on Second Reading

*State Bill Page:* [SB 8](#)

**SB 162 CHRONIC PAIN MANAGEMENT (MESSMER M)** Requires state employee health plans, Medicaid, policies of accident and sickness insurance, and health maintenance organization contracts to provide coverage for chronic pain management. Requires a practitioner to prescribe other forms of treatment for certain chronic pain before prescribing an opioid. Requires the office of Medicaid policy and planning to apply for any Medicaid state plan amendment necessary to provide the coverage.

*Current Status:* 2/20/2019 - Senate Insurance and Financial Institutions, (Bill Scheduled for

Hearing)

*State Bill Page:* [SB 162](#)

- SB 203** **PHYSICIAN MAINTENANCE OF CERTIFICATION** (BROWN L) Prohibits a hospital from denying hospital staff or admitting privileges to a physician or podiatrist based solely on the decision of the physician or podiatrist not to participate in maintenance of certification. Specifies that the medical licensing statute and the podiatrist licensing statute do not require a licensed physician or licensed podiatrist to hold or maintain a board certification in a specialty medical area in order to practice. Prohibits an accident and sickness insurer from: (1) denying a physician or podiatrist the right to enter into a reimbursement agreement with the insurer; (2) denying a physician or podiatrist reimbursement for a covered service; or (3) setting reimbursement for services provided by a physician or podiatrist at a lower rate; based solely on the decision of the physician or podiatrist not to participate in maintenance of certification. Prohibits a health maintenance organization (HMO) from: (1) preventing a physician or podiatrist from entering into a participating provider contract with the HMO; (2) denying a physician or podiatrist reimbursement for a covered service; or (3) setting reimbursement for services provided by a physician or podiatrist at a lower rate; based solely on the decision of the physician or podiatrist not to participate in maintenance of certification.
- All Bill Status:* 1/24/2019 - House sponsor: Representative Heine  
1/24/2019 - Third reading passed; Roll Call 31: yeas 44, nays 4
- State Bill Page:* [SB 203](#)

## OPIOIDS

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- HB 1007** **PERINATAL CARE** (KIRCHHOFER C) Requires the state department of health (department) to establish a perinatal navigator program. Requires a health care provider to: (1) use a validated and evidence based verbal screening tool to assess a substance use disorder in pregnancy for all pregnant women who are seen by the health care provider; and (2) if the health care provider identifies a pregnant woman who has a substance use disorder and is not currently receiving treatment, provide treatment or refer the patient to treatment. Requires the department to establish guidelines for health care providers treating substance use disorder in pregnancy. Adds the department of child services to the list of agencies to which a health care provider may not release the results of certain tests given to a pregnant woman.
- Current Status:* 1/24/2019 - Senate sponsors: Senators Charbonneau and Crider  
*All Bill Status:* 1/24/2019 - Third reading passed; Roll Call 31: yeas 99, nays 0  
*State Bill Page:* [HB 1007](#)
- HB 1294** **INSPECT PROGRAM** (ZENT D) Moves existing language concerning the central repository for controlled substances data from Title 35 to Title 25 and makes conforming changes. Specifies that a practitioner may obtain information about a patient directly through the Indiana scheduled prescription electronic collection and tracking program data base (INSPECT data base) or through the patient's integrated health record. Decreases the instances in which a Class A misdemeanor is a violation to when a practitioner discloses confidential information without authorization. (Current law provides for a Class A misdemeanor for any violation of the chapter.) Provides for instances in which a practitioner is not required to obtain information from the INSPECT data base.
- Current Status:* 1/31/2019 - Senate sponsor: Senator Houchin  
*All Bill Status:* 1/31/2019 - Third reading passed; Roll Call 75: yeas 97, nays 0  
*State Bill Page:* [HB 1294](#)
- SB 141** **OFFICE BASED OPIOID TREATMENT PROVIDERS** (HOUCHIN E) Specifies requirements that a health care provider that prescribes for a patient in an office based opioid treatment setting must meet in the treatment of the patient. Requires the medical licensing board of Indiana, in consultation with the state department of health and the office of the secretary of family and social services, to adopt rules or protocols concerning office based opioid treatment providers and: (1) treatment agreements; (2) periodic scheduled patient visits; (3) urine toxicology screenings; (4) HIV, hepatitis B, and hepatitis C testing; and (5) the medical record documentation required for the prescribing of buprenorphine

over a specified dosage.

*All Bill Status:* 1/24/2019 - House sponsor: Representative Smaltz  
1/24/2019 - Third reading passed; Roll Call 24: yeas 42, nays 6

*State Bill Page:* [SB 141](#)

## MISCELLANEOUS

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**HB 1275 SEPSIS TREATMENT PROTOCOLS (MAHAN K)** Requires a hospital to adopt, implement, and periodically update evidence based sepsis protocols for the early recognition and treatment of patients with sepsis, severe sepsis, or septic shock that are based on generally accepted standards of care. Establishes the sepsis treatment protocol task force (task force). Assigns the task force certain duties concerning evidence based sepsis protocols, best practices, and appropriate data measures. Requires the state department of health (department) to: (1) adopt model protocols based on recommendations of the task force; and (2) coordinate, develop, and implement sepsis protocol training. Requires the department to prepare a report on the implementation of the sepsis protocols.

*All Bill Status:* 2/5/2019 - Senate sponsors: Senators Charbonneau, Ruckelshaus and Holdman  
2/5/2019 - Third reading passed; Roll Call 107: yeas 95, nays 0

*State Bill Page:* [HB 1275](#)

**SB 188 NURSING FACULTY LOAN REPAYMENT GRANT PROGRAM (BECKER V)** Establishes the nursing faculty loan repayment grant program (program) to increase the number of nursing faculty in Indiana. Requires the commission for higher education to administer the program. Establishes the nursing faculty loan repayment grant fund. Sets forth requirements for an individual to participate in the program.

*All Bill Status:* 1/31/2019 - House sponsor: Representative Brown T  
1/31/2019 - Third reading passed; Roll Call 52: yeas 48, nays 1

*State Bill Page:* [SB 188](#)

**SB 201 HEALTH PROVIDER ETHICAL EXEMPTION (BROWN L)** Includes: (1) nurses; (2) physician assistants; and (3) pharmacists; in the prohibition from being required to perform an abortion or assist or participate in procedures intended to result in an abortion if the health care provider objects to the procedures on ethical, moral, or religious grounds. (Current law applies only to physicians and employees.) Adds a prohibition on requiring certain providers to prescribe, administer, or dispense an abortion inducing drug.

*Current Status:* 2/18/2019 - Senate Bills on Second Reading

*State Bill Page:* [SB 201](#)

**SB 228 DEPARTMENT OF HEALTH MATTERS (CHARBONNEAU E)** Allows the state health commissioner to issue standing orders (current law allows for statewide standing orders) and sets forth requirements of a standing order. Removes requirement that the state department of health (state department) adopt rules defining a birth problem. Requires the state department to publish a list annually of birth problems required to be reported and allows for the state department to update the list. Adds considerations by the state department in compiling the birth problem list. Allows the state department to release information in the immunization data registry to the Centers for Disease Control and Prevention. Requires the state department to publish a list of reportable communicable diseases and other diseases and conditions that are a danger to health and to publish the list of control measures for the diseases and conditions on the state department's Internet web site. Sets forth considerations in updating the list of communicable diseases and conditions.

*All Bill Status:* 1/29/2019 - Cosponsor: Representative Fleming  
1/29/2019 - House sponsor: Representative Kirchofer  
1/29/2019 - Third reading passed; Roll Call 45: yeas 49, nays 0

*State Bill Page:* [SB 228](#)

**SB 575 HOSPITAL MATTERS (CHARBONNEAU E)** Specifies that only general acute hospitals may post community wayfinding signage for hospitals. Requires the state department of health to, beginning

May 1, 2020, designate hospitals in classifications and subicensure classifications when issuing or renewing a hospital's license. Specifies the following hospital licensure classifications: (1) general acute hospitals; (2) specialty acute hospitals; or (3) limited service acute hospitals; and sets forth requirements for each classification. Specifies that hospitals may only use the hospital's classification when marketing to or soliciting business from the public. Requires each license to list every location that is included under the license. Specifies requirements that a hospital must meet concerning transfer agreements. Prohibits the state department from basing a hospital's subclassification on guidelines for design and construction of hospitals and health care facilities. Beginning May 1, 2020, expires a hospital license every two years from the date of issuance. (Current law requires a hospital license to expire one year after issuance.)

**Current Status:** 2/20/2019 - Senate Health and Provider Services, (Bill Scheduled for Hearing)

**State Bill Page:** [SB 575](#)

**SB 631 DRUG CLASSIFICATIONS AND DRUG SCHEDULES (YOUNG M)** Adds numerous substances to the definition of "synthetic drug". Adds epidiolex and brivaracetam to Schedule V. Specifies that dronabinol is a Schedule II controlled substance only in oral solution. Defines "fentanyl related substance" and adds it to Schedule I. Moves certain fentanyl related substances from the definition of "synthetic drugs" in Schedule II to Schedule I. Adds Thiafentanil to Schedule II.

**All Bill Status:** 2/12/2019 - House sponsor: Representative McNamara

2/12/2019 - Third reading passed; Roll Call 117: yeas 47, nays 1

**State Bill Page:** [SB 631](#)