HOUSE BILL No. 1973

DIGEST OF INTRODUCED BILL

Citations Affected: IC 4-1-8-1; IC 4-15-2-3.8; IC 4-33-4-21.2; IC 4-33-12-6; IC 5-1-16-1; IC 5-20-1-2; IC 5-20-4-15; IC 6-7-1-32.1; IC 7.1-6-2-2; IC 7.1-6-2-5; IC 9-18-32.2-4; IC 9-24-15-6.5; IC 9-30-10-9; IC 11-10-4; IC 12-7-2; IC 12-8; IC 12-10; IC 12-11; IC 12-13-12-3; IC 12-15-18-5.1; IC 12-15-33-6; IC 12-16; IC 12-17-15-1; IC 12-17.2-1-1; IC 12-17.2-2-2; IC 12-17.4-1-1; IC 12-17.4-2-2; IC 12-21; IC 12-22-2-11; IC 12-23-5-9; IC 12-23-7-14; IC 12-24; IC 12-26; IC 12-27-9-3; IC 12-27-9-6; IC 12-29-1-7; IC 12-29-2; IC 16-32-2-3; IC 16-39-2-2; IC 16-39-2-6; IC 16-42-20; IC 16-46-6-4; IC 20-1; IC 20-8.1-6.1-5; IC 22-3-2-2.3; IC 25-23.6; IC 27-8-5-15.5; IC 29-3-3-5; IC 31-38-2-10; IC 34-30-2-47.3; IC 35-36-2-5; IC 35-36-3; IC 35-47-2.5-7.

Synopsis: Division of mental health. Changes the name of the division of mental health to the division of addiction and mental health services.

Effective: July 1, 1999; March 1, 2001.

Bardon

January 26, 1999, read first time and referred to Committee on Public Health.

C o p y

Introduced

First Regular Session 111th General Assembly (1999)

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 1998 General Assembly.

C o p y

HOUSE BILL No. 1973

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

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

SECTION 1. IC 4-1-8-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 1. (a) No individual may be compelled by any state agency, board, commission, department, bureau, or other entity of state government (referred to as "state agency" in this chapter) to provide the individual's Social Security number to the state agency against the individual's will, absent federal requirements to the contrary. However, the provisions of this chapter do not apply to the following:

(1) Department of state revenue.

(2) Department of workforce development.

(3) The programs administered by:

(A) the division of family and children;

(B) the division of **addiction and** mental health **services;**

(C) the division of disability, aging, and rehabilitative services; and

(D) the office of Medicaid policy and planning;

of the office of the secretary of family and social services.

(4) Auditor of state.
(5) State personnel department.
(6) Secretary of state, with respect to the registration of broker-dealers, agents, and investment advisors.
(7) The legislative ethics commission, with respect to the registration of lobbyists.
(8) Indiana department of administration, with respect to bidders on contracts.
(9) Indiana department of transportation, with respect to bidders on contracts.
(10) Health professions bureau.
(11) Indiana professional licensing agency.
(12) Indiana department of insurance, with respect to licensing of insurance agents.
(13) A pension fund administered by the board of trustees of the public employees' retirement fund.
(14) The Indiana state teachers' retirement fund.
(15) The state police benefit system.

(b) The bureau of motor vehicles may, notwithstanding this chapter, require the following:

(1) That an individual include the individual's Social Security number in an application for an official certificate of title for any vehicle required to be titled under IC 9-17.
(2) That an individual include the individual's Social Security number on an application for registration.
(3) That a corporation, limited liability company, firm, partnership, or other business entity include its federal tax identification number on an application for registration.

(c) The Indiana department of administration, the Indiana department of transportation, the health professions bureau, and the Indiana professional licensing agency may require an employer to provide its federal employer identification number.

(d) The department of correction may require a committed offender to provide the offender's Social Security number for purposes of matching data with the Social Security Administration to determine benefit eligibility.

(e) The Indiana gaming commission may, notwithstanding this chapter, require the following:

(1) That an individual include the individual's Social Security number in any application for a riverboat owner's license, supplier's license, or occupational license.
(2) That a sole proprietorship, a partnership, an association, a

C o p y

fiduciary, a corporation, a limited liability company, or any other business entity include its federal tax identification number on an application for a riverboat owner's license or supplier's license.

SECTION 2. IC 4-15-2-3.8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 3.8. "State service" means public service by:

(1) employees and officers, including the incumbent directors, of the county offices of family and children; and

(2) employees and officers, except members of boards and commissions or individuals hired for or appointed to, after June 30, 1982, positions as appointing authorities, deputies, assistants reporting to appointing authorities, or supervisors of major units within state agencies, irrespective of the title carried by those positions, of the division of disability, aging, and rehabilitative services, Fort Wayne State Developmental Center, Muscatatuck State Developmental Center, New Castle State Developmental Center, Northern Indiana State Developmental Center, division of **addiction and** mental health **services,** Larue D. Carter Memorial Hospital, Evansville State Psychiatric Treatment Center for Children, Central State Hospital, Evansville State Hospital, Logansport State Hospital, Madison State Hospital, Richmond State Hospital, state department of health, Indiana School for the Blind, Indiana School for the Deaf, Indiana Veterans' Home, Indiana Soldiers' and Sailors' Children's Home, Silvercrest Children's Development Center, department of correction, Westville Correctional Facility, Plainfield Juvenile Correctional Facility, Putnamville Correctional Facility, Indianapolis Juvenile Correctional Facility, Indiana State Prison, Indiana Women's Prison, Pendleton Correctional Facility, Reception and Diagnostic Center, Rockville Correctional Facility, Youth Rehabilitation Facility, Plainfield Correctional Facility, department of fire and building services, state emergency management agency (excluding a county emergency management organization and any other local emergency management organization created under IC 10-4-1), civil rights commission, criminal justice planning agency, department of workforce development, Indiana historical bureau, Indiana state library, division of family and children, Indiana state board of animal health, Federal Surplus Property Warehouse, Indiana education employment relations board, public employees' retirement fund, teachers' retirement fund, department of labor, Indiana protection and advocacy services commission, commission on public records, Indiana horse racing

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commission, and state personnel department.

SECTION 3. IC 4-33-4-21.2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 21.2. (a) The Indiana gaming commission shall require a licensed owner to conspicuously display the number of the toll free telephone line described in IC 4-33-12-6 in the following locations:

(1) On each admission ticket to a riverboat gambling excursion.

(2) On a poster or placard that is on display in a public area of each riverboat where gambling games are conducted.

(b) The toll free telephone line described in IC 4-33-12-6 must be:

(1) maintained by the division of **addiction and** mental health **services** under IC 12-23-1-6; and

(2) funded by the addiction services fund established by IC 12-23-2-2.

(c) The commission may adopt rules under IC 4-22-2 necessary to carry out this section.

SECTION 4. IC 4-33-12-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 6. (a) The department shall place in the state general fund the tax revenue collected under this chapter.

(b) Except as provided by subsection (c), the treasurer of state shall quarterly pay the following amounts:

(1) One dollar ($1) of the admissions tax collected by the licensed owner for each person embarking on a riverboat during the quarter shall be paid to:

(A) the city in which the riverboat is docked, if the city:

(i) is described in IC 4-33-6-1(a)(1) through IC 4-33-6-1(a)(4) or in IC 4-33-6-1(b); or

(ii) is contiguous to the Ohio River and is the largest city in the county; and

(B) the county in which the riverboat is docked, if the riverboat is not docked in a city described in clause (A).

(2) One dollar ($1) of the admissions tax collected by the licensed owner for each person embarking on a riverboat during the quarter shall be paid to the county in which the riverboat is docked. In the case of a county described in subdivision (1)(B), this one dollar ($1) is in addition to the one dollar ($1) received under subdivision (1)(B).

(3) Ten cents ($0.10) of the admissions tax collected by the licensed owner for each person embarking on a riverboat during the quarter shall be paid to the county convention and visitors bureau or promotion fund for the county in which the riverboat is

C o p y

docked.

(4) Fifteen cents ($0.15) of the admissions tax collected by the licensed owner for each person embarking on a riverboat during a quarter shall be paid to the state fair commission, for use in any activity that the commission is authorized to carry out under IC 15-1.5-3.

(5) Ten cents ($0.10) of the admissions tax collected by the licensed owner for each person embarking on a riverboat during the quarter shall be paid to the division of **addiction and** mental health **services.** The division shall allocate at least twenty-five percent (25%) of the funds derived from the admissions tax to the prevention and treatment of compulsive gambling.

(6) Sixty-five cents ($0.65) of the admissions tax collected by the licensed owner for each person embarking on a riverboat during the quarter shall be paid to the Indiana horse racing commission to be distributed as follows, in amounts determined by the Indiana horse racing commission, for the promotion and operation of horse racing in Indiana:

(A) To one (1) or more breed development funds established by the Indiana horse racing commission under IC 4-31-11-10.

(B) To a racetrack that was approved by the Indiana horse racing commission under IC 4-31. The commission may make a grant under this clause only for purses, promotions, and routine operations of the racetrack. No grants shall be made for long term capital investment or construction and no grants shall be made before the racetrack becomes operational and is offering a racing schedule.

(c) With respect to tax revenue collected from a riverboat that operates on Patoka Lake, the treasurer of state shall quarterly pay the following amounts:

(1) The counties described in IC 4-33-1-1(3) shall receive one dollar ($1) of the admissions tax collected for each person embarking on the riverboat during the quarter. This amount shall be divided equally among the counties described in IC 4-33-1-1(3).

(2) The Patoka Lake development account established under IC 4-33-15 shall receive one dollar ($1) of the admissions tax collected for each person embarking on the riverboat during the quarter.

(3) The resource conservation and development program that:

(A) is established under 16 U.S.C. 3451 et seq.; and

(B) serves the Patoka Lake area;

C o p y

shall receive forty cents ($0.40) of the admissions tax collected for each person embarking on the riverboat during the quarter.

(4) The state general fund shall receive fifty cents ($0.50) of the admissions tax collected for each person embarking on the riverboat during the quarter.

(5) The division of **addiction and** mental health **services** shall receive ten cents ($0.10) of the admissions tax collected for each person embarking on the riverboat during the quarter. The division shall allocate at least twenty-five percent (25%) of the funds derived from the admissions tax to the prevention and treatment of compulsive gambling.

(d) Money paid to a unit of local government under subsection (b)(1) through (b)(2) or subsection (c)(1):

(1) must be paid to the fiscal officer of the unit and may be deposited in the unit's general fund or riverboat fund established under IC 36-1-8-9, or both;

(2) may not be used to reduce the unit's maximum or actual levy under IC 6-1.1-18.5; and

(3) may be used for any legal or corporate purpose of the unit, including the pledge of money to bonds, leases, or other obligations under IC 5-1-14-4.

(e) Money paid by the treasurer of state under subsection (b)(3) shall be:

(1) deposited in:

(A) the county convention and visitor promotion fund; or

(B) the county's general fund if the county does not have a convention and visitor promotion fund; and

(2) used only for the tourism promotion, advertising, and economic development activities of the county and community.

(f) Money received by the division of **addiction and** mental health **services** under subsections (b)(5) and (c)(5):

(1) is annually appropriated to the division of **addiction and** mental health **services;**

(2) shall be distributed to the division of **addiction and** mental health **services** at times during each state fiscal year determined by the budget agency; and

(3) shall be used by the division of **addiction and** mental health **services** for programs and facilities for the prevention and treatment of addictions to drugs, alcohol, and compulsive gambling, including the creation and maintenance of a toll free telephone line to provide the public with information about these addictions. The division shall allocate at least twenty-five percent

C o p y

(25%) of the money received to the prevention and treatment of compulsive gambling.

SECTION 5. IC 5-1-16-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 1. As used in this chapter:

"Authority" refers to the Indiana health facility financing authority.

"Bonds" includes bonds, refunding bonds, notes, interim certificates, bond anticipation notes, and other evidences of indebtedness of the authority, issued under this chapter.

"Building" or "buildings" or similar words mean any building or part of a building or addition to a building for health care purposes. The term includes the site for the building (if a site is to be acquired), equipment, heating facilities, sewage disposal facilities, landscaping, walks, drives, parking facilities, and other structures, facilities, appurtenances, materials, and supplies that may be considered necessary to render a building suitable for use and occupancy for health care purposes.

"Cost" includes the following:

(1) The cost and the incidental and related costs of the acquisition, repair, restoration, reconditioning, refinancing, or installation of health facility property.

(2) The cost of any property interest in health facility property, including an option to purchase a leasehold interest.

(3) The cost of constructing health facility property, or an addition to health facility property, acquiring health facility property, or remodeling health facility property.

(4) The cost of architectural, engineering, legal, trustee, underwriting, and related services; the cost of the preparation of plans, specifications, studies, surveys, and estimates of cost and of revenue; and all other expenses necessary or incident to planning, providing, or determining the need for or the feasibility and practicability of health facility property.

(5) The cost of financing charges, including premiums or prepayment penalties and interest accrued during the construction of health facility property or before the acquisition and installation or refinancing of such health facility property for up to two (2) years after such construction, acquisition, and installation or refinancing and startup costs related to health facility property for up to two (2) years after such construction, acquisition, and installation or refinancing.

(6) The costs paid or incurred in connection with the financing of health facility property, including out-of-pocket expenses, the cost of any policy of insurance; the cost of printing, engraving, and

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reproduction services; and the cost of the initial or acceptance fee of any trustee or paying agent.

(7) The costs of the authority, incurred in connection with providing health facility property, including reasonable sums to reimburse the authority for time spent by its agents or employees in providing and financing health facility property.

(8) The cost paid or incurred for the administration of any program for the purchase or lease of or the making of loans for health facility property, by the authority and any program for the sale or lease of or making of loans for health facility property to any participating provider.

"County" means any county in the state that owns and operates a county hospital.

"Health facility property" means any tangible or intangible property or asset owned or used by a participating provider and which:

(1) is determined by the authority to be necessary or helpful, directly or indirectly, to provide:

(A) health care;

(B) medical research;

(C) training or teaching of health care personnel;

(D) habilitation, rehabilitation, or therapeutic services; or

(E) any related supporting services;

in Indiana, regardless of whether such property is in existence at the time of, or is to be provided after the making of, such finding;

(2) is a residential facility for:

(A) the physically, mentally, or emotionally disabled;

(B) the physically or mentally ill; or

(C) the elderly; or

(3) is a licensed child caring institution providing residential care described in IC 12-7-2-29(1).

"Health facility" means any facility or building owned or used by a participating provider which is utilized, directly or indirectly:

(1) in:

(A) health care;

(B) habilitation, rehabilitation, or therapeutic services;

(C) medical research;

(D) the training or teaching of health care personnel; or

(E) any related supporting services;

(2) to provide a residential facility for:

(A) the physically, mentally, or emotionally disabled;

(B) the physically or mentally ill; or

(C) the elderly; or

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(3) as a child caring institution and provides residential care described in IC 12-7-2-29(1).

"Net revenues" means the revenues of a hospital remaining after provision for proper and reasonable expenses of operation, repair, replacement, and maintenance of the hospital.

"Participating provider" means a person, corporation, municipal corporation, political subdivision, or other entity, public or private, which:

(1) is:

(A) licensed under IC 12-25, IC 16-21, or IC 16-28;

(B) a regional blood center;

(C) a community mental health center or community mental retardation and other developmental disabilities center (as defined in IC 12-7-2-38 and IC 12-7-2-39);

(D) an entity that contracts with the division of **addiction and** mental health **services** to provide the program described in IC 12-11-2 or IC 12-22-2;

(E) a vocational rehabilitation center established under IC 12-12-1-4(1);

(F) the owner or operator of a facility that is utilized, directly or indirectly, to provide health care, habilitation, rehabilitation, therapeutic services, medical research, the training or teaching of health care personnel, or any related supporting services, or of a residential facility for the physically, mentally, or emotionally disabled, physically or mentally ill, or the elderly;

(G) a licensed child caring institution providing residential care described in IC 12-7-2-29(1);

(H) an integrated health care system between or among providers, a health care purchasing alliance, a health insurer or third party administrator that is a participant in an integrated health care system, a health maintenance or preferred provider organization, or a foundation that supports a health care provider; or

(I) an individual, a business entity, or a governmental entity that owns an equity or membership interest in any of the organizations described in clauses (A) through (H); and

(2) under this chapter, contracts with the authority for the financing or refinancing of, or the lease or other acquisition of, health facility property.

"Regional blood center" means a nonprofit corporation or corporation created under 36 U.S.C. 1 that:

(1) is:

C o p y

(A) accredited by the American Association of Blood Banks; or

(B) registered or licensed by the Food and Drug Administration of the Department of Health and Human Services; and

(2) owns and operates a health facility that is primarily engaged in:

(A) drawing, testing, processing, and storing human blood and providing blood units or components to Indiana hospitals; or

(B) harvesting, testing, typing, processing, and storing human body tissue and providing this tissue to Indiana hospitals.

SECTION 6. IC 5-20-1-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 2. As used in this chapter:

"Assisted" means, with respect to a loan:

(1) the payment by the United States or any duly authorized agency thereof of assistance payments, interest payments, or mortgage reduction payments with respect to such loan; or

(2) the provision of insurance, guaranty, security, collateral, subsidies, or other forms of assistance or aid acceptable to the authority for the making, holding, or selling of a loan from the United States, any duly authorized agency thereof, or any entity or corporation acceptable to the authority, other than the sponsor.

"Authority" means the Indiana housing finance authority created under this chapter.

"Bonds" or "notes" means the bonds or notes authorized to be issued by the authority under this chapter.

"Development costs" means the costs approved by the authority as appropriate expenditures and credits which may be incurred by sponsors, builders, and developers of residential housing prior to commitment and initial advance of the proceeds of a construction loan or of a mortgage, including but not limited to:

(1) payments for options to purchase properties on the proposed residential housing site, deposits on contracts of purchase, or, with prior approval of the authority, payments for the purchase of such properties;

(2) legal, organizational, and marketing expenses, including payments of attorney's fees, project manager, clerical, and other incidental expenses;

(3) payment of fees for preliminary feasibility studies and advances for planning, engineering, and architectural work;

(4) expenses for surveys as to need and market analyses;

(5) necessary application and other fees;

C o p y

(6) credits allowed by the authority to recognize the value of service provided at no cost by the sponsors, builders, or developers; and

(7) such other expenses as the authority deems appropriate for the purposes of this chapter.

"Governmental agency" means any department, division, public agency, political subdivision, or other public instrumentality of the state of Indiana, the federal government, any other state or public agency, or any two (2) or more thereof.

"Construction loan" means a loan to provide interim financing for the acquisition or construction of single family residential housing, including land development.

"Mortgage" or "mortgage loan" means a loan to provide permanent financing for:

(1) the rehabilitation, acquisition, or construction of single family residential housing, including land development; or

(2) the weatherization of single family residences.

"Mortgage lender" means a bank, trust company, savings bank, savings association, credit union, national banking association, federal savings association or federal credit union maintaining an office in this state, a public utility (as defined in IC 8-1-2-1), a gas utility system organized under IC 8-1-11.1, an insurance company authorized to do business in this state, or any mortgage banking firm or mortgagee authorized to do business in this state and approved by either the authority or the Department of Housing and Urban Development.

"Land development" means the process of acquiring land primarily for residential housing construction for persons and families of low and moderate income and making, installing, or constructing nonresidential housing improvements, including water, sewer, and other utilities, roads, streets, curbs, gutters, sidewalks, storm drainage facilities, and other installations or works, whether on or off the site, which the authority deems necessary or desirable to prepare such land primarily for residential housing construction.

"Obligations" means any bonds or notes authorized to be issued by the authority under this chapter.

"Persons and families of low and moderate income" means persons and families of insufficient personal or family income to afford adequate housing as determined by the standards established by the authority, and in determining such standards the authority shall take into account the following:

(1) The amount of total income of such persons and families available for housing needs.

C o p y

(2) The size of the family.

(3) The cost and condition of housing facilities available in the different geographic areas of the state.

(4) The ability of such persons and families to compete successfully in the private housing market and to pay the amounts at which private enterprise is providing sanitary, decent, and safe housing.

The standards shall, however, comply with the applicable limitations of section 4(b) of this chapter.

"Residential facility for children" means a facility:

(1) that provides residential services to individuals who are:

(A) under twenty-one (21) years of age; and

(B) adjudicated to be children in need of services under IC 31-34 (or IC 31-6-4 before its repeal) or delinquent children under IC 31-37 (or IC 31-6-4 before its repeal); and

(2) that is:

(A) a child caring institution that is or will be licensed under IC 12-17.4;

(B) a residential facility that is or will be licensed under IC 12-28-5; or

(C) a facility that is or will be certified by the division of **addiction and** mental health **services** under IC 12-23.

"Residential facility for the developmentally disabled" means a facility that is approved for use in a community residential program for the developmentally disabled under IC 12-11-2-1(1), IC 12-11-2-1(2), or IC 12-11-2-1(3).

"Residential facility for the mentally ill" means a facility that is approved by the division of **addiction and** mental health **services** for use in a community residential program for the mentally ill under IC 12-22-2-3(1), IC 12-22-2-3(2), IC 12-22-2-3(3), or IC 12-22-2-3(4).

"Residential housing" means a specific work or improvement undertaken primarily to provide single or multiple family housing for rental or sale to persons and families of low and moderate income, including the acquisition, construction, or rehabilitation of lands, buildings, and improvements thereto, and such other nonhousing facilities as may be incidental or appurtenant thereto.

"Sponsors", "builders", or "developers" means corporations, associations, partnerships, limited liability companies, or other entities and consumer housing cooperatives organized pursuant to law for the primary purpose of providing housing to low and moderate income persons and families.

"State" means the state of Indiana.

C o p y

"Tenant programs and services" means services and activities for persons and families living in residential housing, including the following:

(1) Counseling on household management, housekeeping, budgeting, and money management.

(2) Child care and similar matters.

(3) Access to available community services related to job training and placement, education, health, welfare, and other community services.

(4) Guard and other matters related to the physical security of the housing residents.

(5) Effective management-tenant relations, including tenant participation in all aspects of housing administration, management, and maintenance.

(6) Physical improvements of the housing, including buildings, recreational and community facilities, safety measures, and removal of code violations.

(7) Advisory services for tenants in the creation of tenant organizations which will assume a meaningful and responsible role in the planning and carrying out of housing affairs.

(8) Procedures whereby tenants, either individually or in a group, may be given a hearing on questions relating to management policies and practices either in general or in relation to an individual or family.

SECTION 7. IC 5-20-4-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 15. (a) The housing trust fund advisory committee is established.

(b) The committee consists of sixteen (16) members to be appointed by the governor as follows:

(1) One (1) member of the division of **addiction and** mental health **services.**

(2) One (1) member of the division of family and children.

(3) One (1) member of the division of disability, aging, and rehabilitative services.

(4) One (1) member of the department of commerce.

(5) One (1) member to represent residential real estate developers.

(6) One (1) member to represent construction trades.

(7) One (1) member to represent banks and other lending institutions.

(8) One (1) member to represent the interests of persons with disabilities.

(9) One (1) member to represent service providers.

C o p y

(10) Two (2) members to represent neighborhood groups.
(11) One (1) member to represent low income families.
(12) One (1) member to represent nonprofit community based organizations and community development corporations.
(13) One (1) member to represent real estate brokers or salespersons.
(14) One (1) member to represent the Indiana Apartment Owner's Association.
(15) One (1) member to represent the manufactured housing industry.

At least three (3) members of the committee shall be from a city with a population of less than thirty-five thousand (35,000), a town, or a rural area.

(c) Members of the advisory committee shall serve a term of three (3) years. However, the governor may remove for cause an appointed member of the advisory committee and fill vacancies of appointed members on the advisory committee.

(d) The advisory committee shall make recommendations to the housing finance authority regarding:

(1) the development of policies and procedures under section 14 of this chapter; and
(2) long term sources to capitalize the housing trust fund, including the following:
(A) Revenue from development ordinances, fees, or taxes.
(B) Market based or private revenue.
(C) Revenue generated from government programs, foundations, private individuals, or corporations.

(e) The advisory committee shall prepare and present an annual report that:

(1) describes disbursements under the housing trust fund; and
(2) makes recommendations to the board of the Indiana housing finance authority regarding long term sources to capitalize the housing trust fund.

SECTION 8. IC 6-7-1-32.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 32.1. (a) The money in the mental health centers fund is annually appropriated to the division of **addiction and** mental health **services.**

(b) The division may use the money:

(1) to pay the state's share of the cost of acquiring sites for, constructing, remodeling, equipping, or operating community mental health centers; and
(2) to provide grants for a partial facility if there is a reasonable

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assurance that the facility will provide community mental health services within five (5) years after it provides any partial service to the public.

SECTION 9. IC 7.1-6-2-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 2. The division of **addiction and** mental health **services** established under IC 12-21 shall coordinate the conduct of random unannounced inspections at locations where tobacco products are sold or distributed to ensure compliance with this article. Only the commission, an Indiana law enforcement agency, the office of the sheriff of a county, or an organized police department of a municipal corporation may conduct the random unannounced inspections. These entities may use retired or off-duty law enforcement officers to conduct inspections under this section.

SECTION 10. IC 7.1-6-2-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 5. The division of **addiction and** mental health **services** established under IC 12-21 shall annually prepare for submission to the Secretary of the United States Department of Health and Human Services the report required by Section 1926 of the Public Health Service Act (42 U.S.C. 300x-26) and implementing regulations promulgated under that act.

SECTION 11. IC 9-18-32.2-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 4. Effective 1-1-2000. (a) The annual fee described in section 3(a)(2) of this chapter shall be deposited with the treasurer of state in a special account. Money in the account at the end of a state fiscal year does not revert to the state general fund.

(b) The auditor of state shall monthly distribute the money in the special account established under subsection (a) to the Indiana Communities for Drug-Free Youth, Inc., or its successor organization, if the Indiana Communities for Drug-Free Youth, Inc., or its successor organization meets the following requirements:

(1) The organization is an Indiana nonprofit corporation.

(2) The organization is exempt from federal income taxation under Internal Revenue Code 501(c)(3).

However, if an organization does not meet these requirements, the treasurer of state shall create a segregated account within the addiction services fund established under IC 12-23-2-2, and the auditor of state shall deposit the money in the account to be distributed to the division of **addiction and** mental health **services.**

(c) An organization that receives money under subsection (b) shall distribute the money to local nonprofit organizations at least semiannually for drug abuse education and prevention initiatives.

C o p y

SECTION 12. IC 9-24-15-6.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 6.5. (a) The court shall grant a petition for a restricted driving permit filed under this chapter if all of the following conditions exist:

(1) The person was not convicted of one (1) or more of the following:

(A) A Class D felony under IC 9-30-5-4 before July 1, 1996, or a Class D felony or a Class C felony under IC 9-30-5-4 after June 30, 1996.

(B) A Class C felony under IC 9-30-5-5 before July 1, 1996, or a Class C felony or a Class B felony under IC 9-30-5-5 after June 30, 1996.

(2) The person's driving privileges were suspended under IC 9-30-6-9(b) or IC 35-48-4-15.

(3) The driving that was the basis of the suspension was not in connection with the person's work.

(4) The person does not have a previous conviction for operating while intoxicated.

(5) The person is participating in a rehabilitation program certified by the division of **addiction and** mental health **services** as a condition of the person's probation.

(b) The person filing the petition for a restricted driving permit shall include in the petition the information specified in subsection (a) in addition to the information required by sections 3 through 4 of this chapter.

(c) Whenever the court grants a person restricted driving privileges under this chapter, that part of the court's order granting probationary driving privileges shall not take effect until the person's driving privileges have been suspended for at least thirty (30) days under IC 9-30-6-9.

SECTION 13. IC 9-30-10-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 9. (a) If a court finds that a person:

(1) is a habitual violator under section 4(c) of this chapter;

(2) has not been previously placed on probation under this section by a court;

(3) operates a vehicle for commercial or business purposes, and the person's mileage for commercial or business purposes:

(A) is substantially in excess of the mileage of an average driver; and

(B) may have been a factor that contributed to the person's poor driving record; and

C o p y

(4) does not have:

(A) a judgment for a violation enumerated in section 4(a) of this chapter; or

(B) at least three (3) judgments (singularly or in combination and not arising out of the same incident) of the violations enumerated in section 4(b) of this chapter;

the court may place the person on probation in accordance with subsection (c).

(b) If a court finds that a person:

(1) is a habitual violator under section 4(b) of this chapter;

(2) has not been previously placed on probation under this section by a court;

(3) does not have a judgment for any violation listed in section 4(a) of this chapter;

(4) has had the person's driving privileges suspended under this chapter for at least five (5) consecutive years; and

(5) has not violated the terms of the person's suspension by operating a vehicle;

the court may place the person on probation in accordance with subsection (c). However, if the person has any judgments for operation of a vehicle while intoxicated or with at least ten-hundredths percent (0.10%) alcohol by weight in grams in one hundred (100) milliliters of the blood, or two hundred ten (210) liters of the breath, the court, before the court places a person on probation under subsection (c), must find that the person has successfully fulfilled the requirements of a rehabilitation program certified by the division of **addiction and** mental health **services.**

(c) Whenever a court places a habitual violator on probation, the court:

(1) shall record each of the court's findings under this section in writing;

(2) shall obtain the person's driver's license or permit and send the license or permit to the bureau;

(3) shall direct the person to apply to the bureau for a restricted driver's license;

(4) shall order the bureau to issue the person an appropriate license;

(5) shall place the person on probation for a fixed period of not less than three (3) years and not more than ten (10) years;

(6) shall attach restrictions to the person's driving privileges, including restrictions limiting the person's driving to:

(A) commercial or business purposes or other employment

C o p y

related driving;

(B) specific purposes in exceptional circumstances; and

(C) rehabilitation programs;

(7) shall order the person to file proof of financial responsibility for three (3) years following the date of being placed on probation; and

(8) may impose other appropriate conditions of probation.

(d) If a court finds that a person:

(1) is a habitual violator under section 4(b) or 4(c) of this chapter;

(2) does not have any judgments for violations under section 4(a) of this chapter;

(3) does not have any judgments or convictions for violations under section 4(b) of this chapter, except for judgments or convictions under section 4(b)(3) of this chapter that resulted from driving on a suspended license that was suspended for:

(A) the commission of infractions only; or

(B) previously driving on a suspended license;

(4) has not been previously placed on probation under this section by a court; and

(5) has had the person's driving privileges suspended under this chapter for at least three (3) consecutive years and has not violated the terms of the person's suspension by operating a vehicle for at least three (3) consecutive years;

the court may place the person on probation under subsection (c).

SECTION 14. IC 11-10-4-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 2. The department shall provide for the care and treatment of every confined offender who is determined to be mentally ill by a psychiatrist employed or retained by the department. To provide that care and treatment, the department may:

(1) establish and operate its own mental health facilities and programs;

(2) transfer offenders to the division of **addiction and** mental health **services,** subject to the approval of the director of the division of **addiction and** mental health **services;** or

(3) contract with any city, county, state, or federal authority or with other public or private organizations for the provision of care and treatment.

SECTION 15. IC 11-10-4-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 3. (a) A committed offender may be involuntarily transferred to the division of **addiction and** mental health **services** or to a mental health facility only if:

C o p y

(1) the offender has been examined by a psychiatrist employed or retained by the department and the psychiatrist reports to the department in writing that, in his opinion, the offender is mentally ill and in need of care and treatment by the division of **addiction and** mental health **services** or in a mental health facility;

(2) the director of mental health approves of the transfer if the offender is to be transferred to the division of **addiction and** mental health **services;** and

(3) the department affords the offender a hearing to determine the need for the transfer, which hearing must comply with the following minimum standards:

(A) The offender shall be given at least ten (10) days advance written and verbal notice of the date, time, and place of the hearing and the reason for the contemplated transfer. This notice must advise the offender of the rights enumerated in clauses (C) and (D). Notice must also be given to one (1) of the following:

(i) The offender's spouse.

(ii) The offender's parent.

(iii) The offender's attorney.

(iv) The offender's guardian.

(v) The offender's custodian.

(vi) The offender's relative.

(B) A copy of the psychiatrist's report must be given to the offender not later than at the time notice of the hearing is given.

(C) The offender is entitled to appear in person, speak in his own behalf, call witnesses, present documentary evidence, and confront and cross-examine witnesses.

(D) The offender is entitled to be represented by counsel or other representative.

(E) The offender must be given a written statement of the findings of fact, the evidence relied upon, and the reasons for the action taken.

(F) A finding that the offender is in need of mental health care and treatment in the division of **addiction and** mental health **services** or a mental health facility must be based upon clear and convincing evidence.

(b) If the official in charge of the facility or program to which the offender is assigned determines that emergency care and treatment in the division of **addiction and** mental health **services** or a mental health facility is necessary to control a mentally ill offender who is either

Copy

gravely disabled or dangerous, that offender may be involuntarily transferred, subject to the approval of the director of the division of **addiction and** mental health **services,** before holding the hearing described in subsection (a)(3). However, this subsection does not deprive the offender of his right to a hearing.

(c) The official in charge of the division of **addiction and** mental health **services** or facility to which an offender is transferred under this section must give the offender a semiannual written report, based on a psychiatrist's examination, concerning his mental condition and the need for continued care and treatment in the division of **addiction and** mental health **services** or facility. If the report states that the offender is still in need of care and treatment in the division of **addiction and** mental health **services** or a mental health facility, the division of **addiction and** mental health **services** or facility shall, upon request of the offender or a representative in his behalf, conduct a hearing to review the need for that continued care and treatment. The hearing must comply with the minimum standards established by subsection (a)(3). The division of **addiction and** mental health **services** or facility to which the offender is transferred under this section may conduct a hearing under this subsection upon its initiative.

(d) If the division of **addiction and** mental health **services** or facility to which an offender is transferred under this section determines that the offender no longer needs care and treatment in the division of **addiction and** mental health **services** or facility, the division of **addiction and** mental health **services** or facility shall return the offender to the custody of the department of correction, and the department of correction shall reassign the offender to another facility or program.

SECTION 16. IC 11-10-4-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 4. (a) An offender who believes the offender to be mentally ill and in need of care and treatment in the division of **addiction and** mental health **services** or a mental health facility shall, at the offender's request for transfer, be examined by a psychiatrist employed or retained by the department of correction, who shall report the psychiatrist's findings to the department of correction. If the report states that the offender is mentally ill and in need of care and treatment in the division of **addiction and** mental health **services** or a mental health facility, the department of correction shall transfer the offender to the division of **addiction and** mental health **services,** subject to the approval of the director of the division of **addiction and** mental health **services,** or to a mental health facility. If the department of correction intends to transfer an offender to the

C o p y

division of **addiction and** mental health **services,** the department of correction shall transmit a copy of the psychiatrist's report to the division of **addiction and** mental health **services.**

(b) Section 3(c) and 3(d) of this chapter apply to transfers under this section.

SECTION 17. IC 11-10-4-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 5. A transfer under this chapter does not extend an offender's term of imprisonment or commitment. However, if it is determined that an offender transferred under this chapter will be in need of mental health care and treatment after the offender's term of imprisonment or commitment ends, the division of **addiction and** mental health **services** or facility to which the offender was transferred may institute commitment proceedings under IC 12-26.

SECTION 18. IC 11-10-4-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 8. Whenever an offender sentenced under IC 35-36-2-5 is committed to the department of correction, the department of correction shall immediately inform the division of **addiction and** mental health **services** of the commitment and provide the division of **addiction and** mental health **services** with a copy of the evaluation made by the department of correction under IC 11-10-1-2.

SECTION 19. IC 12-7-2-38 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 38. "Community mental health center" means a program of services that meets the following conditions:

(1) Is approved by the division of **addiction and** mental health **services.**

(2) Is organized for the purpose of providing multiple services for persons with mental illness or a chronic addictive disorder.

(3) Is operated by one (1) of the following or any combination of the following:

(A) A city, a town, a county, or another political subdivision of Indiana.

(B) An agency of the state.

(C) An agency of the United States.

(D) A political subdivision of another state.

(E) A hospital owned or operated by a unit of government described in clauses (A) through (D).

(F) A building authority organized for the purpose of constructing facilities to be leased to units of government.

(G) A corporation incorporated under IC 23-7-1.1 (before its

C o p y

repeal August 1, 1991) or IC 23-17.

(H) A nonprofit corporation incorporated in another state.

(I) A university or college.

SECTION 20. IC 12-7-2-64 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 64. "Director" refers to the following:

(1) With respect to a particular division, the director of the division.

(2) With respect to a particular state institution, the director who has administrative control of and responsibility for the state institution.

(3) For purposes of IC 12-10-15, the term refers to the director of the division of disabilities, aging, and rehabilitative services.

(4) For purposes of IC 12-25, the term refers to the director of the division of **addiction and** mental health **services.**

(5) For purposes of IC 12-26, the term:

(A) refers to the director who has administrative control of and responsibility for the appropriate state institution; and

(B) includes the director's designee.

(6) If subdivisions (1) through (5) do not apply, the term refers to the director of any of the divisions.

SECTION 21. IC 12-7-2-69 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 69. (a) "Division", except as provided in subsections (b) and (c), refers to any of the following:

(1) The division of disability, aging, and rehabilitative services established by IC 12-9-1-1.

(2) The division of family and children established by IC 12-13-1-1.

(3) The division of **addiction and** mental health **services** established by IC 12-21-1-1.

(b) The term refers to the following:

(1) For purposes of the following statutes, the division of disability, aging, and rehabilitative services established by IC 12-9-1-1:

(A) IC 12-9.

(B) IC 12-10.

(C) IC 12-11.

(D) IC 12-12.

(2) For purposes of the following statutes, the division of family and children established by IC 12-13-1-1:

(A) IC 12-13.

C o p y

(B) IC 12-14.
(C) IC 12-15.
(D) IC 12-16.
(E) IC 12-17.
(F) IC 12-17.2.
(G) IC 12-17.4.
(H) IC 12-18.
(I) IC 12-19.
(J) IC 12-20.

(3) For purposes of the following statutes, the division of **addiction and** mental health **services** established by IC 12-21-1-1:

(A) IC 12-21.
(B) IC 12-22.
(C) IC 12-23.
(D) IC 12-25.

(c) With respect to a particular state institution, the term refers to the division whose director has administrative control of and responsibility for the state institution.

(d) For purposes of IC 12-24, IC 12-26, and IC 12-27, the term refers to the division whose director has administrative control of and responsibility for the appropriate state institution.

SECTION 22. IC 12-7-2-127 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 127. (a) "Managed care provider", for purposes of IC 12-14-1 through IC 12-14-9 and IC 12-15 (except IC 12-15-21, IC 12-15-33, and IC 12-15-34) means either of the following:

(1) A physician licensed under IC 25-22.5 who:

(A) is primarily engaged in general practice, family practice, internal medicine, pediatric medicine, or obstetrics and gynecology; and

(B) has entered into a provider agreement for the provision of physician services under IC 12-15-11-4.

(2) A partnership, corporation, or other entity that:

(A) employs or contracts with physicians licensed under IC 25-22.5 who are primarily engaged in general practice, family practice, internal medicine, pediatric medicine, or obstetrics and gynecology; and

(B) has entered into a provider agreement for the provision of physician services under IC 12-15-11-4.

(b) "Managed care provider", for purposes of IC 12-21-1 through IC 12-29-2, means an organization:

C o p y

(1) that:
(A) for mental health services, is defined under 42 U.S.C. 300x-2(c); or
(B) provides addiction services;
(2) that has entered into a provider agreement with the division of **addiction and** mental health **services** under IC 12-21-2-7 to provide a continuum of care in the least restrictive, most appropriate setting; and
(3) that is operated by at least one (1) of the following:
(A) A city, town, county, or other political subdivision of Indiana.
(B) An agency of Indiana or of the United States.
(C) A political subdivision of another state.
(D) A hospital owned or operated by:
(i) a unit of government; or
(ii) a building authority that is organized for the purpose of constructing facilities to be leased to units of government.
(E) A corporation incorporated under IC 23-7-1.1 (before its repeal August 1, 1991) or IC 23-17.
(F) A nonprofit corporation incorporated in another state.
(G) A university or college.

SECTION 23. IC 12-7-2-151 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 151. "Psychiatric hospital", for purposes of section 82 of this chapter, means any of the following:
(1) A state institution.
(2) A general hospital:
(A) licensed by the state department of health; and
(B) that maintains and operates facilities for the observation, care, treatment, and detention of individuals who are mentally ill.
(3) A private psychiatric hospital licensed by the division of **addiction and** mental health **services.**

SECTION 24. IC 12-7-2-175 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 175. "Service provider", for purposes of IC 12-27, means any of the following:
(1) A state institution.
(2) A private psychiatric hospital licensed under IC 12-25.
(3) A community mental health center.
(4) A community mental retardation and other developmental disabilities center.
(5) A service provider certified by the division of **addiction and**

C o p y

mental health **services** to provide substance abuse treatment programs.

(6) A service provider or program receiving money from or through a division.

(7) Any other service provider, hospital, clinic, program, agency, or private practitioner if the individual receiving mental health services or developmental training was admitted without the individual's consent.

(8) A managed care provider (as defined in IC 12-7-2-127(b)).

SECTION 25. IC 12-8-2-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 3. Unless otherwise provided by a statute, this chapter applies to the following:

(1) The family and social services committee established by IC 12-8-3-2.

(2) The following advisory councils:

(A) The division of disability, aging, and rehabilitative services advisory council.

(B) The division of family and children advisory council.

(C) The division of **addiction and** mental health **services** advisory council.

(3) A body:

(A) established by statute for a division; and

(B) whose enabling statute makes this chapter applicable to the body.

SECTION 26. IC 12-8-6-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 7. The office and the division of **addiction and** mental health **services** shall develop a written memorandum of understanding that provides the following:

(1) Program responsibilities for the provision of care and treatment for mentally ill individuals.

(2) Responsibilities to educate and inform vendors of the proper billing procedures.

(3) Responsibilities in administering the state plan.

(4) Responsibilities for Medicaid fiscal and quality accountability and audits for mental health services.

(5) That the division shall recommend options and services to be reimbursed under the state plan.

(6) That the office and the division agree that, within the limits of 42 U.S.C. 1396 et seq., mentally ill individuals cannot be excluded from services on the basis of diagnosis unless these services are otherwise provided and reimbursed under the state plan.

C o p y

(7) That the office shall seek review and comment from the division before the adoption of rules or standards that may affect the service, programs, or providers of medical assistance services for the mentally ill.

(8) That the division shall develop rate setting policies for medical assistance services for the mentally ill.

(9) Policies to facilitate communication between the office and the division.

(10) Any additional provisions that enhance communication between the office and the division or facilitate more efficient or effective delivery of mental health services.

SECTION 27. IC 12-8-10-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 1. This chapter applies only to the indicated money of the following state agencies to the extent that the money is used by the agency to obtain services from grantee agencies to carry out the program functions of the agency:

(1) Money appropriated or allocated to a state agency from money received by the state under the Social Services Block Grant Act (42 U.S.C. 1397 et seq.).

(2) The division of disability, aging, and rehabilitative services, except this chapter does not apply to money expended under the following:

(A) The following statutes, unless application of this chapter is required by another subdivision of this section:

(i) IC 12-10-6.

(ii) IC 12-10-12.

(B) Epilepsy services.

(3) The division of family and children, for money expended under the following:

(A) The following statutes:

(i) IC 12-14-10.

(ii) IC 12-14-11.

(iii) IC 12-14-12.

(B) The following programs:

(i) The child development associate scholarship program.

(ii) The dependent care program.

(iii) Migrant day care.

(iv) The youth services bureau.

(v) The project safe program.

(vi) The commodities program.

(vii) The migrant nutrition program.

(viii) Any emergency shelter program.

C o p y

(ix) The energy weatherization program.

(x) Programs for individuals with developmental disabilities.

(4) The state department of health, for money expended under the following statutes:

(A) IC 16-19-10.

(B) IC 16-38-3.

(5) The group.

(6) All state agencies, for any other money expended for the purchase of services if all the following apply:

(A) The purchases are made under a contract between the state agency and the office of the secretary.

(B) The contract includes a requirement that the office of the secretary perform the duties and exercise the powers described in this chapter.

(C) The contract is approved by the budget agency.

(7) The division of **addiction and** mental health **services.**

SECTION 28. IC 12-10-5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 3. (a) The task force consists of thirteen (13) voting and four (4) nonvoting members as follows:

(1) Two (2) representatives of an Alzheimer's disease or related senile dementia support organization.

(2) Five (5) individuals with expertise in Alzheimer's disease or related senile dementia, including at least:

(A) one (1) physician with an unlimited license to practice medicine under IC 25-22.5; and

(B) one (1) psychologist with a license to practice psychology under IC 25-33.

(3) Two (2) health care providers that provide services to persons with Alzheimer's disease or related senile dementia.

(4) One (1) individual whose parent, spouse, brother, or sister is or was afflicted with Alzheimer's disease or related senile dementia.

(5) The commissioner of the state department of health or the commissioner's designee.

(6) The director or the director's designee.

(7) One (1) representative of the division of **addiction and** mental health **services.**

(8) Two (2) members of the house of representatives appointed by the speaker of the house of representatives. The members appointed under this subdivision:

(A) may not be members of the same political party; and

C o p y

(B) serve as nonvoting ex officio members of the task force.

(9) Two (2) members of the senate appointed by the president pro tempore of the senate. The members appointed under this subdivision:

(A) may not be members of the same political party; and

(B) serve as nonvoting ex officio members of the task force.

(b) The members of the task force designated by subsection (a)(1) through (a)(4) shall be appointed by the governor.

SECTION 29. IC 12-10-6-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 2. (a) An individual who is incapable of residing in the individual's own home may apply for residential care assistance under this section. The determination of eligibility for residential care assistance is the responsibility of the division. Except as provided in subsections (f) and (h), an individual is eligible for residential care assistance if the division determines that the individual:

(1) is a recipient of Medicaid or the federal Supplemental Security Income program;

(2) is incapable of residing in the individual's own home because of dementia, mental illness, or a physical disability;

(3) requires a degree of care less than that provided by a health care facility licensed under IC 16-28; and

(4) can be adequately cared for in a residential care setting.

(b) Individuals suffering from mental retardation may not be admitted to a home or facility that provides residential care under this section.

(c) A service coordinator employed by the division may:

(1) evaluate a person seeking admission to a home or facility under subsection (a); or

(2) evaluate a person who has been admitted to a home or facility under subsection (a), including a review of the existing evaluations in the person's record at the home or facility.

If the service coordinator determines the person evaluated under this subsection is mentally retarded, the service coordinator may recommend an alternative placement for the person.

(d) Except as provided in section 5 of this chapter, residential care consists of only room, board, and laundry, along with minimal administrative direction. State financial assistance may be provided for such care in a boarding or residential home of the applicant's choosing that is licensed under IC 16-28 or a Christian Science facility listed and certified by the Commission for Accreditation of Christian Science Nursing Organizations/Facilities, Inc., that meets certain life safety

C o p y

standards considered necessary by the state fire marshal. Payment for such care shall be made to the provider of the care according to division directives and supervision. The amount of nonmedical assistance to be paid on behalf of a recipient living in a boarding home, residential home, or Christian Science facility shall be based on the daily rate established by the division. The rate for facilities that are referred to in this section and licensed under IC 16-28 may not exceed an upper rate limit established by a rule adopted by the division. The recipient may retain from the recipient's income a personal allowance in an amount to be established by the division, but not less than twenty-eight dollars and fifty cents ($28.50) or more than thirty-five dollars ($35) monthly. This amount is exempt from income eligibility consideration by the division and may be exclusively used by the recipient for the recipient's personal needs. However, if the recipient's income is less than the amount of the personal allowance, the division shall pay to the recipient the difference between the amount of the personal allowance and the recipient's income. A reserve or an accumulated balance from such a source, together with other sources, may not be allowed to exceed the state's resource allowance allowed for adults eligible for state supplemental assistance or Medicaid as established by the rules of the office of Medicaid policy and planning.

(e) In addition to the amount that may be retained as a personal allowance under this section, an individual shall be allowed to retain an amount equal to the individual's state and local income tax liability. The amount that may be retained during a month may not exceed one-third (1/3) of the individual's state and local income tax liability for the calendar quarter in which that month occurs. This amount is exempt from income eligibility consideration by the division. The amount retained shall be used by the individual to pay any state or local income taxes owed.

(f) The rate of payment to the provider shall be determined in accordance with a prospective prenegotiated payment rate predicated on a reasonable cost related basis, with a growth of profit factor, as determined in accordance with generally accepted accounting principles and methods, and written standards and criteria, as established by the division. The division shall establish an administrative appeal procedure to be followed if rate disagreement occurs if the provider can demonstrate to the division the necessity of costs in excess of the allowed or authorized fee for the specific boarding or residential home. The amount may not exceed the maximum established under subsection (d).

(g) The personal allowance for one (1) month for an individual

C o p y

described in subsection (a) whose employment is part of the individual's personal habilitation plan or who is working in a sheltered workshop or day activity center is the amount that an individual would be entitled to retain under subsection (d) plus an amount equal to one-half (1/2) of the remainder of:

(1) gross earned income for that month; minus

(2) the sum of:

(A) sixteen dollars ($16); plus

(B) the amount withheld from the person's paycheck for that month for payment of state income tax, federal income tax, and the tax prescribed by the federal Insurance Contribution Act (26 U.S.C. 3101 et seq.); plus

(C) transportation expenses for that month.

(h) An individual who, before September 1, 1983, has been admitted to a home or facility that provides residential care under this section is eligible for residential care in the home or facility.

(i) The director of the division may contract with the division of **addiction and** mental health **services** or the division of disability, aging, and rehabilitative services to purchase services for individuals suffering from mental illness or a developmental disability by providing money to supplement the appropriation for community residential care programs established under IC 12-22-2 or community residential programs established under IC 12-11-1-1.

(j) A person with a mental illness may not be placed in a Christian Science facility listed and certified by the Commission for Accreditation of Christian Science Nursing Organizations/Facilities, Inc., unless the facility is licensed under IC 16-28.

SECTION 30. IC 12-10-6-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 5. (a) An individual who is determined as disabled under section 2(a)(2) of this chapter because of mental illness may be admitted to a home or facility that provides residential care to the extent that money is available for the care.

(b) Within thirty (30) days after a mentally ill individual is placed in a home or facility that provides residential care, a comprehensive care plan must be developed for the individual.

(c) The residential care facility, in cooperation with the community mental health center or an individual's managed care provider (as defined in IC 12-7-2-127(b)) serving the area in which the residential care facility is located, shall develop the comprehensive care plan for the individual. The plan must include the following:

(1) Psychosocial rehabilitation services that are provided within

C o p y

the community.

(2) A comprehensive range of activities to meet multiple levels of need, including the following:

(A) Recreational and socialization activities.

(B) Social skills.

(C) Educational, training, occupational, and work programs.

(D) Opportunities for progression into less restrictive and more independent living arrangements.

(3) Appropriate alternate placement if the individual's needs cannot be met by the facility.

(d) The health facilities council shall, in coordination with the division of **addiction and** mental health **services** and the division, adopt rules under IC 4-22-2 to govern:

(1) residential care; and

(2) the comprehensive care plan;

provided to individuals suffering from mental illness who reside under this chapter in a home or facility that provides residential care.

SECTION 31. IC 12-10-12-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 12. (a) The activities of the screening team must be conducted under uniform rules adopted under IC 4-22-2 by the director of the division.

(b) The rules must be developed in cooperation with the division of **addiction and** mental health **services** and the office.

SECTION 32. IC 12-11-2-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 8. The division of **addiction and** mental health **services** and the division shall enter into a memorandum of understanding concerning referrals to a service coordinator of individuals with developmental disabilities discharged from or on an outpatient status from a state institution operated by the division of **addiction and** mental health **services.**

SECTION 33. IC 12-11-5-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 6. So that the funds authorized by this chapter may be used to the best advantage for the benefit of persons with multiple disabilities, the budget agency, upon concurrent recommendations of the director of the division of **addiction and** mental health **services** and the director of the division of disability, aging, and rehabilitative services, may transfer funds authorized by this chapter from one (1) division to the other.

SECTION 34. IC 12-11-7-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 6. The comprehensive plan required by section 5(3) of this chapter must include an interagency cooperation agreement among the following:

C o p y

(1) The department of education.
(2) The division of **addiction and** mental health **services.**
(3) The division of family and children.
(4) The division.
(5) Any other appropriate agencies.

SECTION 35. IC 12-11-7-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 7. The following shall cooperate with the commission and each other in developing and updating the comprehensive plan required by section 5(3) of this chapter and in developing and complying with the interagency cooperation agreement required by section 6 of this chapter:

(1) The department of education.
(2) The division of **addiction and** mental health **services.**
(3) The division of family and children.
(4) The division.
(5) Any other appropriate agencies.

SECTION 36. IC 12-11-8-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 3. (a) The institute for autism in cooperation with the appropriate state agencies shall do the following:

(1) Provide informational services about autism.
(2) Provide an information system for services provided to individuals with autism and their families by federal, state, local, and private agencies.
(3) Develop a data base from information received by the division, the division of **addiction and** mental health **services,** the department of education, and the state department of health relative to the services provided to autistic individuals and their families.
(4) Offer training and technical assistance to providers of services and families of individuals with autism.
(5) Research methods for assessing, planning, implementing, and evaluating programs for individuals with autism and their families.
(6) Develop model curricula and resource materials for providers of services and families of individuals with autism.
(7) Conduct one (1) time every three (3) years a statewide needs assessment study designed to determine the following:
(A) The status of services provided to autistic individuals and their families.
(B) The need for additional or alternative services for autistic individuals and their families.

C o p y

(b) The institute for autism shall deliver to the general assembly the results of the needs assessment study required by subsection (a)(7) before December 1 of each year in which the study is conducted.

SECTION 37. IC 12-11-10-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 5. Services to support families of persons with disabilities and persons with disabilities may include services available within the division of family and children, the division of aging and rehabilitative services, the division of **addiction and** mental health **services,** the department of health, the department of education, the department of workforce development, and the department of corrections, including case management and service coordination.

SECTION 38. IC 12-13-12-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 3. The commission consists of nineteen (19) members appointed as follows:

(1) Two (2) members of the senate, who are not members of the same political party, appointed by the president pro tempore of the senate with the advice of the minority leader of the senate.

(2) Two (2) members of the house of representatives, who are not members of the same political party, appointed by the speaker of the house of representatives with the advice of the minority leader of the house of representatives.

(3) The director of the division of family and children or the director's designee.

(4) The director of the division of **addiction and** mental health **services** or the director's designee.

(5) The commissioner of the state department of health or the commissioner's designee.

(6) The superintendent of public instruction or the superintendent's designee.

(7) The commissioner of the department of correction or the commissioner's designee.

(8) The director of the civil rights commission or the director's designee.

(9) The commissioner of the department of administration or the commissioner's designee.

(10) The director of the department of commerce or the director's designee.

(11) A minority business person, appointed by the governor.

(12) Three (3) persons appointed by the president pro tempore of the senate who are not members of the general assembly. Not more than two (2) of the persons appointed under this subdivision

C o p y

may be members of the same political party.

(13) Three (3) persons appointed by the speaker of the house of representatives who are not members of the general assembly. Not more than two (2) of the persons appointed under this subdivision may be members of the same political party.

SECTION 39. IC 12-15-18-5.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 5.1. (a) For state fiscal years ending on or after June 30, 1998, the trustees and each municipal health and hospital corporation established under IC 16-22-8-6 are authorized to make intergovernmental transfers to the Medicaid indigent care trust fund in amounts to be determined jointly by the office and the trustees, and the office and each municipal health and hospital corporation.

(b) The treasurer of state shall annually transfer from appropriations made for the division of **addiction and** mental health **services** sufficient money to provide the state's share of payments under IC 12-15-16-6(c)(5).

(c) The office shall coordinate the transfers from the trustees and each municipal health and hospital corporation established under IC 16-22-8-6 so that the aggregate intergovernmental transfers, when combined with federal matching funds:

(1) produce payments to each hospital licensed under IC 16-21 that qualifies as an enhanced disproportionate share provider under IC 12-15-16-1(b); and

(2) both individually and in the aggregate do not exceed limits prescribed by the United States Health Care Financing Administration.

The trustees and a municipal health and hospital corporation are not required to make intergovernmental transfers under this section. The trustees and a municipal health and hospital corporation may make additional transfers to the Medicaid indigent care trust fund to the extent necessary to make additional payments from the Medicaid indigent care trust fund apply to a prior federal fiscal year as provided in IC 12-15-19-1(c).

(d) A municipal disproportionate share provider (as defined in IC 12-15-16-1(c)) shall transfer to the Medicaid indigent care trust fund an amount determined jointly by the office and the municipal disproportionate share provider. A municipal disproportionate share provider is not required to make intergovernmental transfers under this section. A municipal disproportionate share provider may make additional transfers to the Medicaid indigent care trust fund to the extent necessary to make additional payments from the Medicaid

C o p y

indigent care trust fund apply to a prior federal fiscal year as provided in IC 12-15-19-1(c).

(e) A county treasurer making a payment under IC 12-29-1-7(b) or from other county sources to a community mental health center qualifying as a community mental health center disproportionate share provider shall certify that the payment represents expenditures that are eligible for federal financial participation under 42 U.S.C. 1396b(w)(6)(A) and 42 CFR 433.51. The office shall assist a county treasurer in making this certification.

SECTION 40. IC 12-15-33-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 6. The following shall serve as ex officio members of the committee:

(1) The state health commissioner or the commissioner's designee.

(2) The director of the division of **addiction and** mental health **services** or the director's designee.

(3) The administrator of the office.

SECTION 41. IC 12-16-1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 1. As used in this chapter, "affected agency" means any of the following:

(1) The department of correction.

(2) The state department of health.

(3) The division of **addiction and** mental health **services.**

(4) The division of disability, aging, and rehabilitative services.

SECTION 42. IC 12-16-2-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 5. The hospital care for the indigent program does not apply to inmates and patients of institutions of the department of correction, the state department of health, the division of **addiction and** mental health **services,** or the division of disability, aging, and rehabilitative services.

SECTION 43. IC 12-16-10-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 1. The division shall, with the advice of the division's medical staff, the division of **addiction and** mental health **services,** the division of disability, aging, and rehabilitative services, and other individuals selected by the director of the division, adopt rules under IC 4-22-2 to do the following:

(1) Provide for review and approval of services paid under the hospital care for the indigent program.

(2) Establish limitations consistent with medical necessity on the duration of services to be provided.

(3) Specify the amount of and method for reimbursement for services.

C o p y

(4) Specify the conditions under which payments will be denied and improper payments will be recovered.

SECTION 44. IC 12-17-15-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 1. As used in this chapter, "agency" means a department, a commission, a council, a board, a bureau, a division, a service, an office, or an administration that is responsible for providing services to infants and toddlers with disabilities and their families, including the following:

(1) The division of **addiction and** mental health **services.**

(2) The state department of health.

(3) The division of family and children.

(4) The division of disability, aging, and rehabilitative services.

(5) The department of education.

SECTION 45. IC 12-17.2-1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 1. This article does not apply to the following:

(1) A child care center or child care home licensed or operated by any of the following:

(A) Programs for children in grades kindergarten through 12 that are operated under the authority of the department of education or that are operated with the assistance of the department of education.

(B) The division of **addiction and** mental health **services.**

(C) The state department of health.

(D) The department of correction.

(2) A county jail or detention center.

SECTION 46. IC 12-17.2-2-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 2. The division may do the following:

(1) Prescribe forms for reports, statements, notices, and other documents required by this article or by the rules adopted under this article.

(2) Increase public awareness of this article and the rules adopted under this article by preparing and publishing manuals and guides explaining this article and the rules adopted under this article.

(3) Facilitate compliance with and enforcement of this article through the publication of materials under subdivision (2).

(4) Prepare reports and studies to advance the purpose of this article.

(5) Seek the advice and recommendations of state agencies whose information and knowledge would be of assistance in writing, revising, or monitoring rules developed under this article. These

C o p y

agencies, including the office of the attorney general, state department of health, division of **addiction and** mental health **services,** bureau of criminal identification and investigation, and fire prevention and building safety commission, shall upon request supply necessary information to the division.

(6) Make the directory of licensees available to the public for a charge not to exceed the cost of reproducing the directory.

(7) Charge a reasonable processing fee for each license application and renewal as follows:

(A) For a child care center license, a fee of two dollars ($2) per licensed child capacity.

(B) For a child care center new inquiry application packet, a fee not to exceed five dollars ($5).

(C) For a child care home license new inquiry application packet, a fee not to exceed five dollars ($5).

(D) For a child care home annual inspection, a fee not to exceed twenty-five dollars ($25).

(8) Exercise any other regulatory and administrative powers necessary to carry out the functions of the division.

SECTION 47. IC 12-17.4-1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 1. This article does not apply to the following:

(1) A child caring institution, foster family home, group home, or child placing agency licensed or operated by any of the following:

(A) Programs for children in grades kindergarten through 12 that are operated under the authority of the department of education or that are operated with the assistance of the department of education.

(B) The division of **addiction and** mental health **services.**

(C) The state department of health.

(D) The department of correction.

(2) A person who has received a child for adoption from a licensed child placement agency.

(3) A county jail or detention center.

SECTION 48. IC 12-17.4-2-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 2. The division may do the following:

(1) Prescribe forms for reports, statements, notices, and other documents required by this article or by the rules adopted under this article.

(2) Increase public awareness of this article and the rules adopted under this article by preparing and publishing manuals and guides

C o p y

explaining this article and the rules adopted under this article.

(3) Facilitate compliance with and enforcement of this article through the publication of materials under subdivision (2).

(4) Prepare reports and studies to advance the purpose of this article.

(5) Seek the advice and recommendations of state agencies whose information and knowledge would be of assistance in writing, revising, or monitoring rules developed under this article. These agencies, including the office of the attorney general, state department of health, division of **addiction and** mental health **services,** bureau of criminal identification and investigation, and fire prevention and building safety commission, shall upon request supply necessary information to the division.

(6) Make the directory of licensees available to the public for a charge not to exceed the cost of reproducing the directory.

(7) Charge a reasonable processing fee for each license application and renewal as follows:

(A) For a child caring institution or group home license, a fee not to exceed three dollars ($3) for each licensed bed based on total licensed bed capacity not to exceed a maximum fee of one hundred fifty dollars ($150).

(B) For a child placing agency license, a fee not to exceed fifty dollars ($50).

(8) Exercise any other regulatory and administrative powers necessary to carry out the functions of the division.

SECTION 49. IC 12-21-1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 1. The division of **addiction and** mental health **services** is established to apply the division's resources to ensure that Indiana citizens have access to appropriate mental health and addiction services that promote individual self-sufficiency.

SECTION 50. IC 12-21-1-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 3. The division is composed of the following:

(1) The director.

(2) The division of **addiction and** mental health **services** advisory council.

(3) Other personnel necessary for the performance of the functions imposed upon the division under law.

SECTION 51. IC 12-21-2-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 8. (a) The director shall develop a comprehensive system of monitoring, evaluation, and quality

C o p y

assurance for the continuum of care required by this chapter.

(b) The director shall determine to whom contracts are awarded, based on the following factors:

(1) The continuity of services a contractor provides for patients.

(2) The accessibility of a contractor's services to patients.

(3) The acceptability of a contractor's services to patients.

(4) A contractor's ability to focus services on building the self-sufficiency of the patient.

(c) This subsection applies to the reimbursement of contract payments to managed care providers. Payments must be determined prospectively in accordance with generally accepted accounting principles and actuarial principles recognizing costs incurred by efficiently and economically operated programs that:

(1) serve mentally ill or substance abuse patients; and

(2) are subject to quality and safety standards and laws.

(d) Before entering into a contract under this section, the director shall submit the contract to the attorney general for approval as to form and legality.

(e) A contract under this section must do the following:

(1) Specify:

(A) the work to be performed; and

(B) the patient populations to whom services must be provided.

(2) Provide for a reduction in funding or termination of the contract for failure to comply with terms of the contract.

(3) Require that the contractor meet the standards set forth in rules adopted by the division of **addiction and** mental health **services** under IC 4-22-2.

(4) Require that the contractor participate in the division's evaluation process.

(5) For any service for which the division chooses to contract on a per diem basis, the per diem reimbursement shall be determined under subsection (c) for the contractor's reasonable cost of providing services.

(6) In contracts with capitated payment provisions, provide that the contractor's cost of purchasing stop-loss insurance for the patient populations to be served in amounts and with limits customarily purchased by prepaid health care plans must be:

(A) included in the actuarial determination of the capitated payment amounts; or

(B) separately paid to the contractor by the division.

(7) Provide that a contract for enumerated services granted by the

C o p y

division under this section to an approved managed care provider may not create or confer upon the managed care provider liability or responsibility for care or services beyond those services supported by the contract.

SECTION 52. IC 12-21-4-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 1. As used in this chapter, "council" refers to the division of **addiction and** mental health **services** advisory council established by this chapter.

SECTION 53. IC 12-21-4-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 2. The division of **addiction and** mental health **services** advisory council is established.

SECTION 54. IC 12-21-5-1.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 1.5. The division shall do the following:

(1) Adopt rules under IC 4-22-2 to establish and maintain criteria to determine patient eligibility and priority for publicly supported mental health and addiction services. The rules must include criteria for patient eligibility and priority based on the following:

(A) A patient's income.

(B) A patient's level of daily functioning.

(C) A patient's prognosis.

(2) Within the limits of appropriated funds, contract with a network of managed care providers to provide a continuum of care in an appropriate setting that is the least restrictive to individuals who qualify for the services.

(3) Require the providers of services funded directly by the division to be in good standing with an appropriate accrediting body as required by rules adopted under IC 4-22-2 by the division.

(4) Develop a provider profile that must be used to evaluate the performance of a managed care provider and that may be used to evaluate other providers of mental health services that access state administered funds, including Medicaid, and other federal funding. A provider's profile must include input from consumers, citizens, and representatives of the mental health ombudsman program (IC 12-27-9) regarding the provider's:

(A) information provided to the patient on patient rights before treatment;

(B) accessibility, acceptability, and continuity of services provided or requested; and

(C) total cost of care per individual, using state administered funds.

C o p y

(5) Ensure compliance with all other performance criteria set forth in a provider contract. In addition to the requirements set forth in IC 12-21-2-7, a provider contract must include the following:

(A) A requirement that the standards and criteria used in the evaluation of care plans be available and accessible to the patient.

(B) A requirement that the provider involve the patient in the choice of and preparation of the treatment plan to the greatest extent feasible.

(C) A provision encouraging the provider to intervene in a patient's situation as early as possible, balancing the patient's right to liberty with the need for treatment.

(D) A requirement that the provider set up and implement an internal appeal process for the patient.

(6) Establish a toll free telephone number that operates during normal business hours for individuals to make comments to the division in a confidential manner regarding services or service providers.

(7) Develop a confidential system to evaluate complaints and patient appeals received by the division of **addiction and** mental health **services** and to take appropriate action regarding the results of an investigation. A managed care provider is entitled to request and to have a hearing before information derived from the investigation is incorporated into the provider's profile. Information contained within the provider profile is subject to inspection and copying under IC 5-14-3-3.

(8) Submit a biennial report to the governor and legislative council that includes an evaluation of the continuum of care.

(9) Conduct an actuarial analysis July 1, 1994, July 1, 1996, and then every four (4) years beginning July 1, 2000.

(10) Annually determine sufficient rates to be paid for services contracted with managed care providers who are awarded a contract under IC 12-21-2-7.

(11) Take actions necessary to assure the quality of services required by the continuum of care under this chapter.

(12) Incorporate the results from the actuarial analysis in subdivision (9) to fulfill the responsibilities of this section.

SECTION 55. IC 12-22-2-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 11. (a) An entity may not:

(1) operate a program described in IC 12-22-3; or

C o p y

(2) hold itself out as operating;

(A) a program described in IC 12-22-3; or

(B) a group home for individuals who are mentally ill;

unless the entity is licensed or certified by the division of **addiction and** mental health **services.**

(b) The division of **addiction and** mental health **services** shall investigate a report of:

(1) an unlicensed facility housing a community residential program described in section 3(1), 3(2), and 3(3) of this chapter;

(2) an uncertified operator of a community residential program described in section 3(1), 3(2), and 3(3) of this chapter; or

(3) a licensed or certified entity's noncompliance with this article;

and report the division's findings to the attorney general.

(c) The attorney general may do the following:

(1) Seek the issuance of a search warrant to assist in an investigation under this section.

(2) File an action for injunctive relief to stop the operation of a facility described in subsection (b) if there is reasonable cause to believe that:

(A) the facility or the operator community residential program described in subsection (b) is operating without a required license or certification; or

(B) a licensed or certified entity's actions or omissions create an immediate danger of serious bodily injury to a mentally ill individual or an imminent danger to the health of a mentally ill individual.

(3) Seek in a civil action a civil penalty of not more than one hundred dollars ($100) a day for each day a facility is operating:

(A) without a license or certification required by law; or

(B) with a license or certification required under this chapter, but is not in compliance with this article, IC 12-21-2-3, or rules adopted under this article or IC 12-21-2-3.

(d) The division of **addiction and** mental health **services** may provide for the removal of mentally ill individuals from facilities for the mentally ill described in subsection (c).

(e) There must be an opportunity for an informal meeting with the division of **addiction and** mental health **services** after injunctive relief is ordered under this section.

(f) The civil penalties collected under this section must be deposited in the mental health centers fund (IC 6-7-1-32.1).

SECTION 56. IC 12-23-5-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 9. A court may not

C o p y

order a defendant or a convicted individual to complete an alcohol and drug services treatment program under section 2(b)(1) or 6(1) of this chapter unless the court determines that the program in which the individual is to participate is administered by a court under IC 12-23-14 or is certified by the division of **addiction and** mental health **services.**

SECTION 57. IC 12-23-7-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 14. The division may not release an offender under section 2(2) of this chapter to an alcohol and drug services treatment program that is not a program administered by a court under IC 12-23-14 or that has not complied with the certification requirements of the division of **addiction and** mental health **services.**

SECTION 58. IC 12-24-1-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 3. (a) The director of the division of **addiction and** mental health **services** has administrative control of and responsibility for the following state institutions:

(1) Central State Hospital.
(2) Evansville State Hospital.
(3) Evansville State Psychiatric Treatment Center for Children.
(4) Larue D. Carter Memorial Hospital.
(5) Logansport State Hospital.
(6) Madison State Hospital.
(7) Richmond State Hospital.
(8) Any other state owned or operated mental health institution.

(b) Subject to the approval of the director of the budget agency and the governor, the director of the division of **addiction and** mental health **services** may contract for the management and clinical operation of Larue D. Carter Memorial Hospital.

SECTION 59. IC 12-24-1-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 7. (a) During the closing of Central State Hospital, and after the institution is closed, the division of **addiction and** mental health **services** shall secure, maintain, and fund appropriate long term inpatient beds for individuals who have been determined by a community mental health center to:

(1) have a chronic and persistent mental disorder or chronic addictive disorder; and
(2) be in need of care that meets the following criteria:
(A) Twenty-four (24) hour supervision of a patient is available.
(B) A patient receives:
(i) active treatment as appropriate for a chronic and

C o p y

persistent mental disorder or chronic addictive disorder;

(ii) case management services from a state approved provider; and

(iii) maintenance of care under the direction of a physician.

(C) Crisis care.

(b) An individual placed in a long term inpatient bed under this section shall receive at least the care described in subsection (a)(2)(A) through (a)(2)(C).

(c) The number of long term inpatient beds that must be secured, maintained, and funded under subsection (a) must satisfy both of the following:

(1) The number of long term inpatient beds in the county where the hospital was located may not be less than twenty-one (21) adults per one hundred thousand (100,000) adults in the county where the hospital was located.

(2) The total number of long term inpatient beds may not be less than twenty-one (21) adults per one hundred thousand (100,000) adults in the catchment area served by Central State Hospital. The division may reduce the total number of long term inpatient beds required by this subdivision whenever the division determines that caseloads justify a reduction. However:

(A) the total number of long term inpatient beds may not be reduced below the number required by subdivision (1); and

(B) the number of long term inpatient beds in the county where the hospital was located may not be reduced below the number required by subdivision (1).

(d) The division is not required to secure, maintain, and fund long term inpatient beds under this section that exceed the number of individuals who have been determined by a community mental health center to be in need of inpatient care under subsection (a). However, subject to the limitations of subsection (c), the division shall at all times retain the ability to secure, maintain, and fund long term inpatient beds for individuals who satisfy the criteria in subsection (a) as determined by the community mental health centers.

(e) An individual may not be placed in a long term inpatient bed under this section at Larue D. Carter Memorial Hospital if the placement adversely affects the research and teaching mission of the hospital.

(f) Notwithstanding any other law, the director of the division of **addiction and** mental health **services** may not terminate normal patient care or other operations at Central State Hospital unless the division has developed a plan to comply with this section. Before closing

C o p y

Central State Hospital, the director shall submit a report to the legislative council containing the following information:

(1) The plans the division has made and implemented to comply with this section.

(2) The disposition of patients made and to be made from July 1, 1993, to the estimated date of closing of Central State Hospital.

(3) Other information the director considers relevant.

SECTION 60. IC 12-24-12-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 1. As used in this chapter, "division" refers only to the division of **addiction and** mental health **services.**

SECTION 61. IC 12-24-12-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 10. (a) Upon admission to a state institution administered by the division of **addiction and** mental health **services**, the gatekeeper is one (1) of the following:

(1) For an individual with a psychiatric disorder, the community mental health center that submitted the report to the committing court under IC 12-26.

(2) For an individual with a developmental disability, a division of disability, aging, and rehabilitative services service coordinator under IC 12-11-2.

(3) For an individual entering an addictions program, an addictions treatment provider that is certified by the division of **addiction and** mental health **services.**

(b) The division is the gatekeeper for the following:

(1) An individual who is found to have insufficient comprehension to stand trial under IC 35-36-3.

(2) An individual who is found to be not guilty by reason of insanity under IC 35-36-2-4 and is subject to a civil commitment under IC 12-26.

(3) An individual who is immediately subject to a civil commitment upon the individual's release from incarceration in a facility administered by the department of correction or the Federal Bureau of Prisons, or upon being charged with or convicted of a forcible felony under IC 35-41-1.

(4) An individual placed under the supervision of the division for addictions treatment under IC 12-23-7 and IC 12-23-8.

(5) An individual transferred from the department of correction under IC 11-10-4.

SECTION 62. IC 12-24-19-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 1. (a) This chapter applies only to a patient who is transferred or discharged from a state

C o p y

institution administered by the division of **addiction and** mental health **services.**

(b) This chapter does not apply to any of the following:

(1) An individual who is admitted to a state institution only for evaluation purposes.

(2) An individual who is incompetent to stand trial.

(3) An individual who has a developmental disability (as defined in IC 12-7-2-61).

(4) An individual in an alcohol and drug services program who is not concurrently diagnosed as mentally ill.

(5) An individual who has escaped from the facility to which the individual was involuntarily committed.

(6) An individual who was admitted to a facility for voluntary treatment and who has left the facility against the advice of the attending physician.

SECTION 63. IC 12-24-19-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 7. (a) As used in this section, "transitional care" means temporary treatment services to facilitate an individual's:

(1) transfer from a mental health institution to a community residential setting; or

(2) discharge from a mental health institution.

(b) The transitional care program shall assist consumers in making a smooth adjustment to community living and operate in collaboration with a managed care provider of services in the consumer's home area.

(c) Resources for the program shall come from the total appropriation for the facility, and may be adjusted to meet the needs of consumer demand by the director.

(d) Each state institution administered by the division of **addiction and** mental health **services** shall establish a transitional care program with adequate staffing patterns and employee skill levels for patients' transitional care needs where clinically appropriate.

(e) The transitional care program shall be staffed by transitional care specialists and at least one (1) transitional care case manager.

(f) A transitional care case manager must have at least a bachelor's degree and be trained in transitional care.

(g) Psychiatric attendants working in this program shall be trained, classified, and compensated as appropriate for a transitional care specialist.

SECTION 64. IC 12-26-6-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 8. (a) If, upon the completion of the hearing and consideration of the record, the court

C o p y

finds that the individual is mentally ill and either dangerous or gravely disabled, the court may order the individual to:

(1) be committed to an appropriate facility; or

(2) enter an outpatient treatment program under IC 12-26-14 for a period of not more than ninety (90) days.

(b) The court's order must require that the superintendent of the facility or the attending physician file a treatment plan with the court within fifteen (15) days of the individual's admission to the facility under a commitment order.

(c) If the commitment ordered under subsection (a) is to a state institution administered by the division of **addiction and** mental health **services,** the record of commitment proceedings must include a report from a community mental health center stating both of the following:

(1) That the community mental health center has evaluated the individual.

(2) That commitment to a state institution administered by the division of **addiction and** mental health **services** under this chapter is appropriate.

(d) The physician who makes the statement required by section 2(c) of this chapter may be affiliated with the community mental health center that submits to the court the report required by subsection (c).

(e) If the commitment is of an adult to a research bed at Larue D. Carter Memorial Hospital as set forth in IC 12-21-2-3, the report from a community mental health center is not required.

(f) If a commitment ordered under subsection (a) is to a state institution administered by the division of disability, aging, and rehabilitative services, the record of commitment proceedings must include a report from a service coordinator employed by the division of disability, aging, and rehabilitative services stating that, based on a diagnostic assessment of the individual, commitment to a state institution administered by the division of disability, aging, and rehabilitative services under this chapter is appropriate.

SECTION 65. IC 12-26-7-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 3. (a) A petition filed under section 2 of this chapter must include a physician's written statement that states both of the following:

(1) The physician has examined the individual within the past thirty (30) days.

(2) The physician believes that the individual is:

(A) mentally ill and either dangerous or gravely disabled; and

(B) in need of custody, care, or treatment in a facility for a period expected to be more than ninety (90) days.

C o p y

(b) Except as provided in subsection (d), if the commitment is to a state institution administered by the division of **addiction and** mental health **services,** the record of the proceedings must include a report from a community mental health center stating both of the following:

(1) The community mental health center has evaluated the individual.

(2) Commitment to a state institution administered by the division of **addiction and** mental health **services** under this chapter is appropriate.

(c) The physician who makes the statement required by subsection (a) may be affiliated with the community mental health center that makes the report required by subsection (b).

(d) If the commitment is of an adult to a research bed at Larue D. Carter Memorial Hospital, as set forth in IC 12-21-2-3, the report from a community mental health center is not required.

(e) If a commitment ordered under subsection (a) is to a state institution administered by the division of disability, aging, and rehabilitative services, the record of commitment proceedings must include a report from a service coordinator employed by the division of disability, aging, and rehabilitative services stating that, based on a diagnostic assessment of the individual, commitment to a state institution administered by the division of disability, aging, and rehabilitative services under this chapter is appropriate.

SECTION 66. IC 12-26-11-3.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 3.5. If an individual is transferred under section 1 of this chapter from a state institution administered by the division of **addiction and** mental health **services,** the gatekeeper for the individual shall facilitate and plan, together with the individual and state institution, the individual's transition to the community or to another facility if the facility is not a state institution administered by the division of **addiction and** mental health **services.**

SECTION 67. IC 12-27-9-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 3. Within the limits of appropriated funds, the division of **addiction and** mental health **services** shall contract in writing with a nonprofit corporation for the operation of the mental health ombudsman program. The nonprofit corporation must:

(1) be qualified to receive tax deductible contributions under Section 170 of the Internal Revenue Code;

(2) have offices statewide; and

(3) have experience in mental health advocacy.

SECTION 68. IC 12-27-9-6 IS AMENDED TO READ AS

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FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 6. (a) If the ombudsman believes that the agency, facility, or program has failed to comply with the ombudsman's recommendations, the ombudsman shall refer the matter to the division of **addiction and** mental health **services** or the Indiana protection and advocacy services commission as appropriate.

(b) The ombudsman shall compile annual statistics on each agency, facility, or program on which it reviews a complaint or conducts an investigation and determines that the complaint has merit or the investigation reveals a problem. The statistics must specify the types of complaints or problems and each agency, facility, or program that has failed to comply with the ombudsman's recommendations. The statistics shall be reported to the director of the division of **addiction and** mental health **services.**

SECTION 69. IC 12-29-1-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 7. (a) On the first Monday in October, the county auditor shall certify to:

(1) the division of **addiction and** mental health **services,** for a community mental health center;

(2) the division of disability, aging, and rehabilitative services, for a community mental retardation and other developmental disabilities center; and

(3) the president of the board of directors of each center;

the amount of money that will be provided to the center under this chapter.

(b) The county payment to the center shall be paid by the county treasurer to the treasurer of each center's board of directors in the following manner:

(1) One-half (1/2) of the county payment to the center shall be made on the second Monday in July.

(2) One-half (1/2) of the county payment to the center shall be made on the second Monday in December.

A county treasurer making a payment under this subsection or from other county sources to a community mental health center that qualifies as a community mental health center disproportionate share provider under IC 12-15-16-1(d) shall certify that the payment represents expenditures eligible for financial participation under 42 U.S.C. 1396b(w)(6)(A) and 42 CFR 433.51. The office of Medicaid policy and planning shall assist a county treasurer in making this certification.

(c) Payments by the county fiscal body:

(1) must be in the amounts:

(A) determined by IC 12-29-2-1 through IC 12-29-2-6; and

C o p y

(B) authorized by section 1 of this chapter; and

(2) are in place of grants from agencies supported within the county solely by county tax money.

SECTION 70. IC 12-29-2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 1. This chapter applies only to the funding of a program of services for the mentally ill that is designated as a community mental health center by the division of **addiction and** mental health **services** in the division's approval of the program.

SECTION 71. IC 12-29-2-13 IS AMENDED TO READ AS FOLLOWS (CURRENT VERSION) [EFFECTIVE JULY 1, 1999]: Sec. 13. (a) This section applies to a county having a population of not less than four hundred thousand (400,000) but not more than seven hundred thousand (700,000).

(b) In addition to any other appropriation under this article, a county annually may fund each center serving the county from the county's general fund in an amount not exceeding the amount that would be raised by a tax rate of three cents ($0.03) on each one hundred dollars ($100) of taxable property within the county.

(c) The receipts from the tax levied under this section shall be used for the leasing, purchasing, constructing, or operating of community residential facilities for the chronically mentally ill (as defined in IC 12-7-2-167).

(d) Money appropriated under this section must be:

(1) budgeted under IC 6-1.1-17; and

(2) included in the center's budget submitted to the division of **addiction and** mental health **services.**

(e) Permission for a levy increase in excess of the levy limitations may be ordered under IC 6-1.1-18.5-15 only if the levy increase is approved by the division of **addiction and** mental health **services** for a community mental health center.

SECTION 72. IC 12-29-2-13 IS AMENDED TO READ AS FOLLOWS (DELAYED VERSION) [EFFECTIVE MARCH 1, 2001]: Sec. 13. (a) This section applies to a county having a population of not less than four hundred thousand (400,000) but not more than seven hundred thousand (700,000).

(b) In addition to any other appropriation under this article, a county annually may fund each center serving the county from the county's general fund in an amount not exceeding the amount that would be raised by a tax rate of one cent ($0.01) on each one hundred dollars ($100) of taxable property within the county.

(c) The receipts from the tax levied under this section shall be used

C o p y

for the leasing, purchasing, constructing, or operating of community residential facilities for the chronically mentally ill (as defined in IC 12-7-2-167).

(d) Money appropriated under this section must be:

(1) budgeted under IC 6-1.1-17; and

(2) included in the center's budget submitted to the division of **addiction and** mental health **services.**

(e) Permission for a levy increase in excess of the levy limitations may be ordered under IC 6-1.1-18.5-15 only if the levy increase is approved by the division of **addiction and** mental health **services** for a community mental health center.

SECTION 73. IC 12-29-2-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 14. (a) An entity may not:

(1) hold itself out to be a community mental health center; or

(2) use the term "community mental health center";

unless the entity is certified by the division of **addiction and** mental health **services.**

(b) The division of **addiction and** mental health **services** shall investigate a report that an entity is operating as a community mental health center without the approval of the division of **addiction and** mental health **services** and report the division's findings to the attorney general.

(c) Upon receiving a report made under subsection (b), the attorney general may do the following:

(1) Seek the issuance of a search warrant to assist in the investigation.

(2) File an action for injunctive relief to stop the operation of the entity that is the subject of the report if there is reasonable cause to believe that the entity is operating without the required approval of the division of **addiction and** mental health **services**.

(3) File an action for injunctive relief to stop the entity that is the subject of the report from using the term "community mental health center".

(4) Seek in a civil action a civil penalty of not more than one hundred dollars ($100) a day for each day an entity is operating without the required approval of the division of **addiction and** mental health **services.**

(d) An opportunity for an informal meeting with the division of **addiction and** mental health **services** must be provided after the injunctive relief is ordered.

(e) The civil penalties collected under this section must be deposited

C o p y

in the mental health centers fund (IC 6-7-1-32.1).

SECTION 74. IC 16-32-2-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 3. The committee shall be composed of the following members:

(1) The director of the division of disability, aging, and rehabilitative services or the director's designee.

(2) The commissioner of the Indiana department of administration or the commissioner's designee.

(3) The executive director of the governor's planning council on people with disabilities.

(4) The director of the division of **addiction and** mental health **services** or the director's designee.

(5) The commissioner of the state department of health or the commissioner's designee.

(6) Three (3) members appointed by the governor to represent the public at large.

SECTION 75. IC 16-39-2-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 2. A record for each patient receiving mental health services shall be maintained by the provider. The mental health record must contain the information that the division of **addiction and** mental health **services,** the division of disability, aging, and rehabilitative services, or the state department requires by rule. The provider is:

(1) the owner of the mental health record;

(2) responsible for the record's safekeeping; and

(3) entitled to retain possession of the record.

The information contained in the mental health record belongs to the patient involved as well as to the provider. The provider shall maintain the original mental health record or a microfilm of the mental health record for at least seven (7) years.

SECTION 76. IC 16-39-2-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 6. (a) Without the consent of the patient, the patient's mental health record may only be disclosed as ~~FOLLOWS [EFFECTIVE JULY 1, 1998].~~ **follows:**

(1) To individuals who meet the following conditions:

(A) Are employed by:

(i) the provider at the same facility or agency;

(ii) a managed care provider (as defined in IC 12-7-2-127(b)); or

(iii) a health care provider or mental health care provider, if the mental health records are needed to provide health care or mental health services to the patient.

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(B) Are involved in the planning, provision, and monitoring of services.

(2) To the extent necessary to obtain payment for services rendered or other benefits to which the patient may be entitled, as provided in IC 16-39-5-3.

(3) To the patient's court appointed counsel and to the Indiana protection and advocacy services commission.

(4) For research conducted in accordance with IC 16-39-5-3 and the rules of the division of **addiction and** mental health **services,** the rules of the division of disability, aging, and rehabilitative services, or the rules of the provider.

(5) To the division of **addiction and** mental health **services** for the purpose of data collection, research, and monitoring managed care providers (as defined in IC 12-7-2-127(b)) who are operating under a contract with the division of **addiction and** mental health **services.**

(6) To the extent necessary to make reports or give testimony required by the statutes pertaining to admissions, transfers, discharges, and guardianship proceedings.

(7) To a law enforcement agency if any of the following conditions are met:

(A) A patient escapes from a facility to which the patient is committed under IC 12-26.

(B) The superintendent of the facility determines that failure to provide the information may result in bodily harm to the patient or another individual.

(C) A patient commits or threatens to commit a crime on facility premises or against facility personnel.

(D) A patient is in the custody of a law enforcement officer or agency for any reason and:

(i) the information to be released is limited to medications currently prescribed for the patient or to the patient’s history of adverse medication reactions; and

(ii) the provider determines that the release of the medication information will assist in protecting the health, safety, or welfare of the patient.

Mental health records released under this clause must be maintained in confidence by the law enforcement agency receiving them.

(8) To a coroner or medical examiner, in the performance of the individual's duties.

(9) To a school in which the patient is enrolled if the

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superintendent of the facility determines that the information will assist the school in meeting educational needs of a person with a disability under 20 U.S.C. 1400 et seq.

(10) To the extent necessary to satisfy reporting requirements under the following statutes:

(A) IC 12-10-3-10.

(B) IC 12-17-2-16.

(C) IC 12-24-17-5.

(D) IC 16-41-2-3.

(E) IC 31-33-5-4.

(F) IC 34-30-16-2.

(G) IC 35-46-1-13.

(11) To the extent necessary to satisfy release of information requirements under the following statutes:

(A) IC 12-24-11-2.

(B) IC 12-24-12-3, IC 12-24-12-4, and IC 12-24-12-6.

(C) IC 12-26-11.

(12) To another health care provider in a health care emergency.

(13) For legitimate business purposes as described in IC 16-39-5-3.

(14) Under a court order under IC 16-39-3.

(15) With respect to records from a mental health or developmental disability facility, to the United States Secret Service if the following conditions are met:

(A) The request does not apply to alcohol or drug abuse records described in 42 U.S.C. 290dd-2 unless authorized by a court order under 42 U.S.C. 290dd-2(b)(2)(c).

(B) The request relates to the United States Secret Service's protective responsibility and investigative authority under 18 U.S.C. 3056, 18 U.S.C. 871, or 18 U.S.C. 879.

(C) The request specifies an individual patient.

(D) The director or superintendent of the facility determines that disclosure of the mental health record may be necessary to protect a person under the protection of the United States Secret Service from serious bodily injury or death.

(E) The United States Secret Service agrees to only use the mental health record information for investigative purposes and not disclose the information publicly.

(F) The mental health record information disclosed to the United States Secret Service includes only:

(i) the patient's name, age, and address;

(ii) the date of the patient's admission to or discharge from

C o p y

the facility; and

(iii) any information that indicates whether or not the patient has a history of violence or presents a danger to the person under protection.

(b) After information is disclosed under subsection (a)(15) and if the patient is evaluated to be dangerous, the records shall be interpreted in consultation with a licensed mental health professional on the staff of the United States Secret Service.

(c) A person who discloses information under subsection (a)(7) or (a)(15) in good faith is immune from civil and criminal liability.

SECTION 77. IC 16-42-20-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 8. The addiction services bureau of the division of **addiction and** mental health **services** shall carry out educational programs designed to prevent and deter misuse and abuse of controlled substances. In connection with these programs, the bureau may do the following:

(1) Promote better recognition of the problems of misuse and abuse of controlled substances within the regulated industry and among interested groups and organizations.

(2) Assist the regulated industry and interested groups and organizations in contributing to the reduction of misuse and abuse of controlled substances.

(3) Consult with interested groups and organizations to aid the groups and organizations in solving administrative and organizational problems.

(4) Evaluate procedures, projects, techniques, and controls conducted or proposed as part of educational programs on misuse and abuse of controlled substances.

(5) Disseminate the results of research on misuse and abuse of controlled substances to promote a better public understanding of what problems exist and what can be done to combat the problems.

(6) Assist in the education and training of state and local law enforcement officials in efforts to control misuse and abuse of controlled substances.

SECTION 78. IC 16-42-20-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 9. The addiction services bureau of the division of **addiction and** mental health **services** shall encourage research on misuse and abuse of controlled substances. In connection with the research and in furtherance of the enforcement of laws relating to controlled substances, the bureau may do the following:

C o p y

(1) Establish methods to assess accurately the effects of controlled substances and identify and characterize those with potential for abuse.

(2) Make studies and undertake programs of research to do the following:

(A) Develop new or improved approaches, techniques, systems, equipment, and devices to strengthen the enforcement of laws relating to controlled substances.

(B) Determine patterns of misuse and abuse of controlled substances and the social effects of such behavior.

(C) Improve methods for preventing, predicting, understanding, and dealing with the misuse and abuse of controlled substances.

(3) Enter into contracts with public agencies, institutions of higher education, and private organizations or individuals for the purpose of conducting research, demonstrations, or special projects that bear directly on misuse and abuse of controlled substances.

SECTION 79. IC 16-42-20-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 10. The addiction services bureau of the division of **addiction and** mental health **services** may enter into contracts for educational and research activities without performance bonds.

SECTION 80. IC 16-46-6-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 4. (a) The council consists of the following seventeen (17) members:

(1) Two (2) members of the house of representatives from different political parties appointed by the speaker of the house of representatives.

(2) Two (2) members of the senate from different political parties appointed by the president pro tempore of the senate.

(3) The governor or the governor's designee.

(4) The state health commissioner or the commissioner's designee.

(5) The director of the division of family and children or the director's designee.

(6) The superintendent of public instruction or the superintendent's designee.

(7) The director of the division of **addiction and** mental health **services** or the director's designee.

(8) The commissioner of the department of correction or the commissioner's designee.

C o p y

(9) The director of the division of disability, aging, and rehabilitative services or the director's designee.

(10) One (1) representative of a public health care facility appointed by the governor.

(11) One (1) licensed physician appointed by the governor who has knowledge and experience in the special health needs of minorities.

(12) One (1) psychologist appointed by the governor who:

(A) is licensed to practice psychology in Indiana; and

(B) has knowledge and experience in the special health needs of minorities.

(13) Three (3) members appointed by the governor, who represent statewide organizations concerned with the health, economic, social, or educational needs of minorities. However, at least one (1) of the members must be a member of the Indiana minority health coalition.

(b) At least fifty percent (50%) of the members of the council must be minorities.

SECTION 81. IC 20-1-1.8-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 13. (a) The step ahead statewide panel is established to implement the step ahead program.

(b) The panel consists of the following members:

(1) Six (6) members who:

(A) shall be appointed by and serve at the pleasure of the governor; and

(B) are selected from representatives of the following state agencies:

(i) Division of **addiction and** mental health **services.**

(ii) State department of health.

(iii) Division of children and family services.

(iv) Budget agency.

(v) Division of aging and rehabilitative services.

(vi) Department of education.

(vii) Executive staff of the lieutenant governor with knowledge in the area of employment and training programs.

(viii) Executive staff of the governor.

(2) Five (5) members who:

(A) shall be appointed by and serve at the pleasure of the governor;

(B) are representative of the private sector; and

(C) are knowledgeable in the field of early childhood

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development.

(3) Four (4) members who:

(A) shall be appointed by and serve at the pleasure of the state superintendent of public instruction; and

(B) are knowledgeable in early childhood education.

(c) The chairman of the panel shall be appointed by the governor from outside of the membership of the panel as described in subsection (b). The chairman serves at the pleasure of the governor.

SECTION 82. IC 20-1-6-2.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 2.1. (a) There is created under the Indiana state board of education a division of special education, which shall exercise all the power and duties set out in this chapter. The governor shall appoint, upon the recommendation of the state superintendent of public instruction, a director of special education who serves at the pleasure of the governor. The amount of compensation of the director shall be fixed by the budget agency with the approval of the governor. The duties of the director are as follows:

(1) To have general supervision of all programs, classes, and schools, including those conducted by the public schools, the department of correction, the state department of health, the division of disability, aging, and rehabilitative services, and the division of **addiction and** mental health **services,** for children with disabilities and to coordinate the work of these schools. In addition, relative to programs for preschool children with disabilities as required under section 14.1 of this chapter, the director has general supervision over programs, classes, and schools, including those conducted by the schools or other state or local service providers as contracted for under section 14.1 of this chapter. However, general supervision does not include the determination of admission standards for the state departments, boards, or agencies authorized to provide programs or classes under this chapter.

(2) To adopt, with the approval of the Indiana state board of education, rules governing the curriculum and instruction, including licensing of personnel in the field of education, as provided by law.

(3) To inspect and rate all schools, programs, or classes for children with disabilities to maintain proper standards of personnel, equipment, and supplies.

(4) With the consent of the state superintendent of public instruction and the budget agency, to appoint and fix salaries for any assistants and other personnel needed to enable the director

C o p y

to accomplish the duties of the director's office.

(5) To adopt, with the approval of the Indiana state board of education, the following:

(A) Rules governing the identification and evaluation of children with disabilities and their placement under an individualized education program in a special education program.

(B) Rules protecting the rights of a child with a disability and the parents of the child with a disability in the identification, evaluation, and placement process.

(6) To make recommendations to the Indiana state board of education concerning standards and case load ranges for related services to assist each teacher in meeting the individual needs of each child according to that child's individualized education program. The recommendations may include the following:

(A) The number of teacher aides recommended for each exceptionality included within the class size ranges.

(B) The role of the teacher aide.

(C) Minimum training recommendations for teacher aides and recommended procedures for the supervision of teacher aides.

(7) To cooperate with the interagency coordinating council established under IC 12-17-15 to ensure that the preschool special education programs required under section 14.1 of this chapter are consistent with the early intervention services program described in IC 12-17-15.

(b) The director or the Indiana state board of education may exercise authority over vocational programs for children with disabilities through a letter of agreement with the department of workforce development.

SECTION 83. IC 20-1-6-15.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 15.1. (a) For the purposes of this section, "comprehensive plan" means a plan for educating all children with disabilities that a school corporation is required to educate under sections 14 through 14.1 of this chapter, and those additional children with disabilities that it elects to educate.

(b) The Indiana state board of education shall adopt rules under IC 4-22-2 detailing the contents of the comprehensive plan. Each school corporation shall complete and submit to the state superintendent of public instruction a comprehensive plan. School corporations operating cooperative or joint special education services may submit a single comprehensive plan. In addition, if a school corporation enters into a contractual agreement as permitted under

C o p y

section 14.1 of this chapter, the school corporation shall collaborate with the service provider in formulating the comprehensive plan.

(c) Notwithstanding the age limits set out in section 1 of this chapter, the Indiana state board of education may conduct a program for the early identification of children with disabilities, between the ages of birth and twenty-one (21), not served by the public schools or through a contractual agreement under section 14.1 of this chapter, and may utilize agencies that serve children with disabilities other than the public schools.

(d) The Indiana state board of education shall adopt rules under IC 4-22-2 requiring the department of correction, the state department of health, the division of disability, aging, and rehabilitative services, and the division of **addiction and** mental health **services** to submit to the superintendent of public instruction a plan for the provision of special education for children in programs administered by each respective agency who are entitled to a special education.

(e) The superintendent of public instruction shall furnish professional consultant services to the school corporations, the department of correction, the state department of health, the division of disability, aging, and rehabilitative services, and the division of **addiction and** mental health **services** to aid them in fulfilling the requirements of this section.

SECTION 84. IC 20-1-6-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 16. (a) The superintendent shall appoint a state advisory council on the education of children with disabilities whose duties shall consist of providing policy guidance concerning special education and related services for children with disabilities. The superintendent shall appoint at least seventeen (17) members who shall serve for a period of four (4) years. Vacancies shall be filled in like manner for the unexpired balance of the term.

(b) The members must be citizens of Indiana who are representative of the state's population and selected on the basis of their involvement in or concern with the education of children with disabilities. A majority of the members must be individuals with disabilities or the parents of children with disabilities. Members must include the following:

(1) Parents of children with disabilities.

(2) Individuals with disabilities.

(3) Teachers.

(4) Representatives of higher education institutions that prepare special education and related services personnel.

C o p y

(5) State and local education officials.
(6) Administrators of programs for children with disabilities.
(7) Representatives of state agencies involved in the financing or delivery of related services to children with disabilities, including the following:
(A) The commissioner of the state department of health or the commissioner's designee.
(B) The director of the division of disability, aging, and rehabilitative services or the director's designee.
(C) The director of the division of **addiction and** mental health **services** or the director's designee.
(D) The director of the division of family and children or the director's designee.
(8) Representatives of nonpublic schools and freeway schools.
(9) One (1) or more representatives of vocational, community, or business organizations concerned with the provision of transitional services to children with disabilities.
(10) Representatives of the department of correction.
(c) The responsibilities of the state advisory council are as follows:
(1) To advise the superintendent and the board regarding all rules pertaining to children with disabilities.
(2) To recommend approval or rejection of completed comprehensive plans submitted by school corporations acting individually or on a joint school services program basis with other corporations.
(3) To advise the department of unmet needs within the state in the education of children with disabilities.
(4) To provide public comment on rules proposed by the board regarding the education of children with disabilities.
(5) To advise the department in developing evaluations and reporting data to the United States Secretary of Education under 20 U.S.C. 1418.
(6) To advise the department in developing corrective action plans to address findings identified in federal monitoring reports under 20 U.S.C. 1400 et seq.
(7) To advise the department in developing and implementing policies related to the coordination of services for children with disabilities.
(d) The council shall organize with a chairperson selected by the superintendent and meet as often as necessary to conduct the council's business at the call of the chairperson upon ten (10) days written notice but not less than four (4) times a year. Members of the council shall be

C o p y

entitled to reasonable amounts for expenses necessarily incurred in the performance of their duties.

(e) The superintendent shall designate the director to act as executive secretary of the council and shall furnish all professional and clerical assistance necessary for the performance of its powers and duties.

(f) The affirmative votes of a majority of the members appointed to the council are required for the council to take action.

SECTION 85. IC 20-1-6-18.2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 18.2. (a) The Indiana state board of education shall adopt rules under IC 4-22-2 which establish limitations on the amount of transportation which may be provided in the student's individualized education program. Unless otherwise specially shown to be essential by the child's individualized education program, in case of residency in a public or private facility, these rules shall limit the transportation required by the student's individualized education program to his first entrance and final departure each school year plus round trip transportation each school holiday period and two (2) additional round trips each school year.

(b) Whenever a student is a transfer student receiving special education in a public school, the state or school corporation responsible for the payment of transfer tuition under IC 20-8.1-6.1-1 shall bear the cost of transportation required by the student's individualized education program. However, if a transfer student was counted as an eligible student for purposes of a distribution in a calendar year under IC 21-3-3.1, the transportation costs that the transferee school may charge for a school year ending in the calendar year shall be reduced by the sum of the following:

(1) The quotient of the amount of money that the transferee school is eligible to receive under IC 21-3-3.1-2.1 for the calendar year in which the school year ends divided by the number of eligible students for the transferee school for the calendar year (as determined under IC 21-3-3.1-2.1).

(2) The amount of money that the transferee school is eligible to receive under IC 21-3-3.1-4 for the calendar year in which the school year ends for the transportation of the transfer student during the school year.

(c) Whenever a student receives a special education in a facility operated by the state department of health, the division of disability, aging, and rehabilitative services, or the division of **addiction and** mental health **services,** the school corporation in which the student has legal settlement shall bear the cost of transportation required by the

C o p y

student's individualized education program. However, if the student's legal settlement cannot be ascertained, the Indiana state board of education shall bear the cost of transportation required by the student's individualized education program.

(d) Whenever a student is placed in a private facility under section 19 of this chapter in order to receive a special education because the student's school corporation cannot provide an appropriate special education program, the school corporation in which the student has legal settlement shall bear the cost of transportation required by the student's individualized education program. However, if the student's legal settlement cannot be ascertained, the Indiana state board of education shall bear the cost of transportation required by the student's individualized education program.

SECTION 86. IC 20-1-6.1-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 13. (a) The rehabilitation services bureau, the bureau providing services to individuals who are developmentally disabled, and the division of **addiction and** mental health **services** shall provide each school corporation with written material describing the ongoing adult services available to students with disabilities and the procedures to be used to access those services.

(b) The material shall be provided in sufficient numbers to allow each student and, if the student's family is involved, each student's family to receive a copy at the annual case review described in section 8 of this chapter or as authorized under section 12 of this chapter.

SECTION 87. IC 20-8.1-6.1-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 5. (a) A student who is placed in a state licensed private or public health care facility, child care facility, or foster family home:

(1) by or with the consent of the division of family and children;

(2) by a court order; or

(3) by a child-placing agency licensed by the division of family and children;

may attend school in the school corporation in which the home or facility is located. If the school corporation in which the home or facility is located is not the school corporation in which the student has legal settlement, the school corporation in which the student has legal settlement shall pay the transfer tuition of the student.

(b) A student who is placed in a state licensed private or public health care or child care facility by a parent or guardian may attend school in the school corporation in which the facility is located if:

(1) the placement is necessary for the student's physical or

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emotional health and well-being; and

(2) the placement is for no less than four (4) weeks.

The school corporation in which the student has legal settlement shall pay the transfer tuition of the student. The parent or guardian of the student shall notify the school corporation in which the facility is located and the school corporation of the student's legal settlement, if identifiable, of the placement. No later than thirty (30) days after this notice, the school corporation of legal settlement shall either pay the transfer tuition of the transferred student or appeal the payment by notice to the department of education. The acceptance or notice of appeal by the school corporation shall be given by certified mail to the parent or guardian of the student and any affected school corporation. In the case of a student who is not identified as disabled under IC 20-1-6, the Indiana state board of education shall make a determination on transfer tuition in accordance with the procedures set out in section 10 of this chapter. In the case of a student who has been identified as disabled under IC 20-1-6, the determination on transfer tuition shall be made in accordance with this subsection and the procedures adopted by the Indiana state board of education under IC 20-1-6-2.1(a)(5).

(c) A student who is placed in:

(1) an institution operated by the division of disability, aging, and rehabilitative services or the division of **addiction and** mental health **services;** or

(2) an institution, a public or private facility, a home, a group home, or an alternative family setting by the division of disability, aging, and rehabilitative services or the division of **addiction and** mental health **services;**

may attend school in the school corporation in which the institution is located. The state shall pay the transfer tuition of the student, unless another entity is required to pay the transfer tuition as a result of a placement described in subsection (a) or (b) or another state is obligated to pay the transfer tuition.

SECTION 88. IC 22-3-2-2.3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 2.3. (a) As used in this section, "volunteer worker" means a person who:

(1) performs services:

(A) for a state institution (as defined in IC 12-7-2-184); and

(B) for which the person does not receive compensation of any nature; and

(2) has been approved and accepted as a volunteer worker by the director of:

C o p y

(A) the division of disability, aging, and rehabilitative services; or

(B) the division of **addiction and** mental health **services.**

(b) Services of any nature performed by a volunteer worker for a state institution (as defined in IC 12-7-2-184) are governmental services. A volunteer worker is subject to the medical benefits described under IC 22-3-2 through IC 22-3-6. However, a volunteer worker is not under IC 22-3-2 through IC 22-3-6.

SECTION 89. IC 25-23.6-3-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 2. (a) This article may not be construed to limit the marriage and family therapy services performed by a person who does not use a title specified in this article and who is one (1) of the following:

(1) A licensed or certified health care professional acting within the scope of the person's license or certificate.

(2) A student, an intern, or a trainee pursuing a course of study in medicine or psychology or a course of study to gain licensure under this article in an accredited institution of higher education or training institution, or is a graduate accumulating experience required for licensure if:

(A) the activities are performed under qualified supervision and constitute a part of the person's supervised course of study or other level of supervision; and

(B) the student or graduate uses a title that contains the term "intern" or "trainee";

(3) Not a resident of Indiana if the person performed services in Indiana for not more than five (5) days in any one (1) month and not more than fifteen (15) days in any one (1) calendar year and the person is authorized to perform such services under the laws of the state or country in which the person resides.

(4) A rabbi, priest, Christian Science practitioner, minister, or other member of the clergy.

(5) An employee of or a volunteer for a nonprofit corporation or an organization performing charitable, religious, or educational functions, providing pastoral counseling or other assistance.

(6) A person who provides school counseling or a person who is certified by a state or national organization that is recognized by the Indiana division of **addiction and** mental health **services** and who provides counseling in the areas of alcohol or drug abuse addictions.

(b) Nothing in this section prohibits a person referred to in subsection (a) from qualifying for licensure under this article.

C o p y

SECTION 90. IC 25-23.6-4-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 3. A person who is not licensed under this article may use the title "social service designee" if the person:

(1) provides or assures provision of social services in:

(A) a health facility licensed under IC 16-28;

(B) a hospital licensed under IC 16-21 or IC 12-25;

(C) a substance abuse facility certified by the division of **addiction and** mental health **services;**

(D) a home health agency licensed under IC 16-27-1; or

(E) a community health center; and

(2) does not profess to be:

(A) a licensed social worker; or

(B) licensed under this article.

SECTION 91. IC 25-23.6-4.5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 2. (a) This article may not be construed to limit the mental health counseling services performed by a person who does not use a title specified in this article and who is one (1) of the following:

(1) A licensed or certified health care professional acting within the scope of the person's license or certificate.

(2) A student, an intern, or a trainee pursuing a course of study in medicine, psychology, or a course of study to gain licensure under this article in an accredited institution of higher education or training institution, or is a graduate accumulating experience required for licensure if:

(A) the services are performed under qualified supervision and constitute a part of the person's supervised course of study or other level of supervision; and

(B) the student or graduate uses a title that contains the term "intern" or "trainee".

(3) Not a resident of Indiana if the person performed the services in Indiana for not more than five (5) days in any one (1) month or fifteen (15) days within any one (1) calendar year and the person is authorized to perform such services under the laws of the state or country in which the person resides.

(4) A rabbi, priest, Christian Science practitioner, minister, or other member of the clergy.

(5) An employee or a volunteer for a nonprofit corporation or an organization performing charitable, religious, or educational functions, providing pastoral counseling, or providing other assistance.

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(6) A person who provides school counseling or a person who is certified by a state or national organization that is recognized by the Indiana division of **addiction and** mental health **services** and who provides counseling in the areas of alcohol or drug abuse addictions.

(b) Nothing in this section prohibits a person referred to in subsection (a) from qualifying for licensure under this article.

SECTION 92. IC 27-8-5-15.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 15.5. (a) As used in this section:

"Alcohol abuse" has the meaning set forth in IC 12-7-2-10.

"Community mental health center" has the meaning set forth in IC 12-7-2-38 and IC 12-7-2-39.

"Division of **addiction and** mental health **services**" refers to the division created under IC 12-21-1-1.

"Drug abuse" has the meaning set forth in IC 12-7-2-72.

"Inpatient services" means services that require the beneficiary of the services to remain overnight in the facility in which the services are offered.

"Mental illness" has the meaning set forth in IC 12-7-2-130(1).

"Psychiatric hospital" has the meaning set forth in IC 12-7-2-151.

"State department of health" refers to the department established under IC 16-19-1-1.

"Substance abuse" means drug abuse or alcohol abuse.

(b) An insurance policy that provides coverage for inpatient services for the treatment of:

(1) mental illness;

(2) substance abuse; or

(3) both mental illness and substance abuse;

may not exclude coverage for inpatient services for the treatment of mental illness or substance abuse that are provided by a community mental health center or by any psychiatric hospital licensed by the state department of health or the division of **addiction and** mental health **services** to offer those services.

SECTION 93. IC 29-3-3-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 5. The chief of social services (or a person designated by the chief of social services) at any institution under the control of the division of **addiction and** mental health **services** or the division of disability, aging, and rehabilitative services may execute the necessary documents to make applications on behalf of a patient in the institution to receive public assistance or to transfer the patient to an alternate care facility without the appointment

C o p y

of a guardian or other order of court.

SECTION 94. IC 31-38-2-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 10. The division of family and children shall:

(1) provide information to:

(A) each referring agency;

(B) the division of **addiction and** mental health **services;** and

(C) the department of education;

concerning their duties and responsibilities under this chapter;

(2) organize local, regional, or statewide meetings necessary to prepare referring and member agencies for participation on a local coordinating committee;

(3) develop guidelines for local coordinating committees concerning the form and content of reports submitted to the division of family and children under this chapter;

(4) monitor and evaluate the performance of local coordinating committees; and

(5) make recommendations to the general assembly concerning the need for and availability of services for children in Indiana.

SECTION 95. IC 34-30-2-47.3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 47.3. IC 12-23-12-2 (Concerning the division of **addiction and** mental health **services** or its agents for exercise of discretion regarding notification or consent when a minor seeks voluntary addiction treatment).

SECTION 96. IC 35-36-2-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 5. (a) Except as provided by subsection (e), whenever a defendant is found guilty but mentally ill at the time of the crime or enters a plea to that effect that is accepted by the court, the court shall sentence the defendant in the same manner as a defendant found guilty of the offense.

(b) Before sentencing the defendant under subsection (a), the court shall require the defendant to be evaluated by a physician licensed under IC 25-22.5 who practices psychiatric medicine, a licensed psychologist, or a community mental health center (as defined in IC 12-7-2-38). However, the court may waive this requirement if the defendant was evaluated by a physician licensed under IC 25-22.5 who practices psychiatric medicine, a licensed psychologist, or a community mental health center and the evaluation is contained in the record of the defendant's trial or plea agreement hearing.

(c) If a defendant who is found guilty but mentally ill at the time of the crime is committed to the department of correction, the defendant shall be further evaluated and then treated in such a manner as is

C o p y

psychiatrically indicated for the defendant's mental illness. Treatment may be provided by:

(1) the department of correction; or

(2) the division of **addiction and** mental health **services** after transfer under IC 11-10-4.

(d) If a defendant who is found guilty but mentally ill at the time of the crime is placed on probation, the court may, in accordance with IC 35-38-2-2.3, require that the defendant undergo treatment.

(e) As used in this subsection, "mentally retarded individual" has the meaning set forth in IC 35-36-9-2. If a court determines under IC 35-36-9 that a defendant who is charged with a murder for which the state seeks a death sentence is a mentally retarded individual, the court shall sentence the defendant under IC 35-50-2-3(a).

SECTION 97. IC 35-36-3-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 1. (a) If at any time before the final submission of any criminal case to the court or the jury trying the case, the court has reasonable grounds for believing that the defendant lacks the ability to understand the proceedings and assist in the preparation of his defense, the court shall immediately fix a time for a hearing to determine whether the defendant has that ability. The court shall appoint two (2) or three (3) competent, disinterested psychiatrists, psychologists endorsed by the Indiana state board of examiners in psychology as health service providers in psychology, or physicians, at least one (1) of whom must be a psychiatrist, who shall examine the defendant and testify at the hearing as to whether the defendant can understand the proceedings and assist in the preparation of the defendant's defense.

(b) At the hearing, other evidence relevant to whether the defendant has the ability to understand the proceedings and assist in the preparation of the defendant's defense may be introduced. If the court finds that the defendant has the ability to understand the proceedings and assist in the preparation of the defendant's defense, the trial shall proceed. If the court finds that the defendant lacks this ability, it shall delay or continue the trial and order the defendant committed to the division of **addiction and** mental health **services,** to be confined by the division in an appropriate psychiatric institution.

SECTION 98. IC 35-36-3-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 2. Whenever the defendant attains the ability to understand the proceedings and assist in the preparation of the defendant's defense, the division of **addiction and** mental health **services,** through the superintendent of the appropriate psychiatric institution, shall certify that fact to the proper

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court, which shall enter an order directing the sheriff to return the defendant. The court may enter such an order immediately after being sufficiently advised of the defendant's attainment of the ability to understand the proceedings and assist in the preparation of the defendant's defense. Upon the return to court of any defendant committed under section 1 of this chapter, the court shall hold the trial as if no delay or postponement had occurred.

SECTION 99. IC 35-36-3-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 3. Within ninety (90) days after a defendant's admittance to a psychiatric institution, the superintendent of the psychiatric institution shall certify to the proper court whether the defendant has a substantial probability of attaining the ability to understand the proceedings and assist in the preparation of the defendant's defense within the foreseeable future. If a substantial probability does not exist, the division of **addiction and** mental health **services** shall initiate regular commitment proceedings under IC 12-26. If a substantial probability does exist, the division of **addiction and** mental health **services** shall retain the defendant:

(1) until the defendant attains the ability to understand the proceedings and assist in the preparation of the defendant's defense and is returned to the proper court for trial; or

(2) for six (6) months from the date of the defendant's admittance; whichever first occurs.

SECTION 100. IC 35-36-3-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 4. If a defendant who was found under section 3 of this chapter to have had a substantial probability of attaining the ability to understand the proceedings and assist in the preparation of the defendant's defense has not attained that ability within six (6) months after the date of the defendant's admittance to a psychiatric institution, the division of **addiction and** mental health **services** shall institute regular commitment proceedings under IC 12-26.

SECTION 101. IC 35-47-2.5-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 7. (a) The state police department shall provide its response to a requesting dealer under section 6 of this chapter during the dealer's call, or by return call without delay.

(b) If a criminal history check indicates that a prospective purchaser or transferee has a disqualifying criminal record or has been acquitted by reason of insanity and committed to the custody of the division of **addiction and** mental health **services,** the state police department has until the end of the next business day of the state police department to

C o p y

advise the dealer that the records indicate the buyer or transferee is prohibited from possessing or transporting a firearm by state or federal law.

(c) If a dealer:

(1) is not advised of a prohibition before the end of the next business day of the state police department; and

(2) has fulfilled the requirements of section 4 of this chapter;

the dealer may immediately complete the sale or transfer and may not be considered in violation of this chapter with respect to the sale or transfer.

(d) In case of electronic failure or other circumstances beyond the control of the state police department, the dealer shall be advised immediately of the reason for the delay and be given an estimate of the length of the delay. However, after a notification under this subsection, the state police department shall inform the requesting dealer whether state police department records indicate the buyer or transferee is prohibited from possessing or transporting a firearm by state or federal law not later than:

(1) the end of the next business day of the state police department following correction of the problem that caused the delay; or

(2) three (3) business days of the state police department;

whichever is earlier.

(e) A dealer that fulfills the requirements of section 4 of this chapter and is told by the state police department that a response will not be available under subsection (d) may immediately complete the sale or transfer and may not be considered in violation of this chapter with respect to the sale or transfer.

SECTION 102. [EFFECTIVE JULY 1, 1999] **(a) After June 30, 1999, a reference to the division of mental health in any statute or rule is considered a reference to the division of addiction and mental health services.**

(b) After June 30, 1999, all property, assets, and liabilities of the division of mental health are property, assests, and liabilities of the division of addiction and mental health services.

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