



Reprinted
February 26, 2003

SENATE BILL No. 493

DIGEST OF SB 493 (Updated February 25, 2003 2:48 PM - DI 104)

Citations Affected: IC 12-7; IC 12-10; IC 12-10.5; noncode.

Synopsis: Home and community based services. Establishes a caretaker support program. Encourages the Indiana health facility financing authority to work with for profit health facilities that are partnered with nonprofit agencies in converting licensed beds to less intensive care beds through bonds. Requires the office of the secretary of family and social services to establish a home and community based long term care service program and establishes eligibility for the program. Requires the office of Medicaid policy and planning to apply for: (1) a waiver to amend the aged and disabled waiver to include any service offered by the community and home options to institutional care for the elderly and disabled (CHOICE) program; and (2) a waiver to amend Medicaid waivers to include spousal impoverishment protection provisions that are at least at the level of those offered to health facility residents. Specifies protections an individual receiving Medicaid waiver services must have.

Effective: Upon passage; July 1, 2003.

**Server, Simpson, Broden, Lawson C,
Miller, Craycraft, Breaux, Sipes,
Riegsecker, Skinner, Landske, Dillon,
Zakas**

January 23, 2003, read first time and referred to Committee on Health and Provider Services.
February 20, 2003, amended, reported favorably — Do Pass.
February 25, 2003, read second time, amended, ordered engrossed.

SB 493—LS 7409/DI 104+



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Reprinted
February 26, 2003

First Regular Session 113th General Assembly (2003)

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 2002 Regular or Special Session of the General Assembly.

SENATE BILL No. 493

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:

1 SECTION 1. IC 12-7-2-1.3 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1.3. "Activities of daily
3 living", for purposes of IC 12-10-10 and **IC 12-10-11.5**, has the
4 meaning set forth in IC 12-10-10-1.5.

5 SECTION 2. IC 12-7-2-24.6 IS ADDED TO THE INDIANA CODE
6 AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY
7 1, 2003]: **Sec. 24.6. "Caretaker", for purposes of IC 12-10.5, has the**
8 **meaning set forth in IC 12-10.5-1-1.**

9 SECTION 3. IC 12-7-2-118.8 IS ADDED TO THE INDIANA
10 CODE AS A **NEW SECTION** TO READ AS FOLLOWS
11 [EFFECTIVE JULY 1, 2003]: **Sec. 118.8. "Institution", for purposes**
12 **of IC 12-10-11.5, has the meaning set forth in IC 12-10-11.5-1.**

13 SECTION 4. IC 12-7-2-180.1 IS ADDED TO THE INDIANA
14 CODE AS A **NEW SECTION** TO READ AS FOLLOWS
15 [EFFECTIVE JULY 1, 2003]: **Sec. 180.1. "Special needs", for**
16 **purposes of IC 12-10.5, has the meaning set forth in IC 12-10.5-1-2.**

17 SECTION 5. IC 12-10-11.5 IS ADDED TO THE INDIANA CODE

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1 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
2 JULY 1, 2003]:

3 **Chapter 11.5. Long Term Care Services**

4 **Sec. 1. As used in this chapter, "institution" means any of the**
5 **following:**

6 (1) **A health facility licensed under IC 16-28.**

7 (2) **An intermediate care facility for the mentally retarded.**

8 **Sec. 2. This chapter is subject to funding available to the office**
9 **of the secretary of family and social services.**

10 **Sec. 3. The office of the secretary of family and social services**
11 **shall establish a comprehensive program of home and community**
12 **based long term care services to provide eligible individuals with**
13 **care that is not more costly than services provided to similarly**
14 **situated individuals who reside in institutions.**

15 **Sec. 4. An individual who has resided in the state for at least**
16 **ninety (90) days shall be eligible for the home and community**
17 **based long term care services program if the individual:**

18 (1) **participates in, or has been determined to be eligible for,**
19 **the community and home options to institutional care for the**
20 **elderly and disabled program established by IC 12-10-10-6;**
21 **or**

22 (2) **meets the following requirements, which must meet the**
23 **general eligibility standards for an individual receiving**
24 **services under a home and community based Medicaid**
25 **waiver:**

26 (A) **Has an income of not more than three hundred percent**
27 **(300%) of the federal Supplemental Security Income level.**

28 (B) **Is unable to perform at least three (3) activities of daily**
29 **living determined by an assessment conducted by an area**
30 **agency on aging case manager or any other agency the**
31 **state has contracted with to perform assessments.**

32 (C) **Is at risk of being placed in an institution or is**
33 **currently residing in an institution and has been**
34 **determined to be eligible for services under IC 12-10-10 or**
35 **under a home and community based Medicaid waiver.**

36 **Sec. 5. The state shall provide access to the following long term**
37 **care services that are appropriate and needed for an individual**
38 **who is eligible for these services under this chapter:**

39 (1) **Any home and community based service that is available**
40 **through:**

41 (A) **the community and home options to institutional care**
42 **for the elderly and disabled program; or**

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- 1 **(B) any state Medicaid waiver.**
- 2 **(2) Personal care services.**
- 3 **(3) Self-directed care.**
- 4 **(4) Assisted living.**
- 5 **(5) Adult foster care.**
- 6 **(6) Adult day care services.**
- 7 **(7) The provision of durable medical equipment or devices.**
- 8 **(8) Housing modifications.**
- 9 **(9) Adaptive medical equipment and devices.**
- 10 **(10) Adaptive nonmedical equipment and devices.**
- 11 **(11) Any other service that is necessary to maintain an**
- 12 **individual in a home and community based setting.**

13 **Sec. 6. (a) The office of the secretary of family and social**
 14 **services shall annually determine any state savings generated by**
 15 **home and community based services under this chapter by**
 16 **reducing the use of institutional care.**

17 **(b) Savings determined under subsection (a) may be used to**
 18 **fund the state's share of additional home and community based**
 19 **Medicaid waiver slots.**

20 **Sec. 7. When possible, the office of the secretary of family and**
 21 **social services shall make use of volunteers and volunteer groups,**
 22 **including faith based groups, when executing its duties under this**
 23 **chapter.**

24 SECTION 6. IC 12-10.5 IS ADDED TO THE INDIANA CODE AS
 25 A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1,
 26 2003]:

27 **ARTICLE 10.5. RESPITE CARE SERVICES**

28 **Chapter 1. Caretaker Support Program**

29 **Sec. 1. As used in this chapter, "caretaker" means an individual**
 30 **who:**

- 31 **(1) provides ongoing care for an individual who:**
 - 32 **(A) is at least eighteen (18) years of age; and**
 - 33 **(B) has special needs; and**
- 34 **(2) does not receive money for the care provided under**
 35 **subdivision (1).**

36 **Sec. 2. As used in this chapter, "special needs" means any of the**
 37 **following:**

- 38 **(1) Alzheimer's disease or any related disorder.**
- 39 **(2) Inability to perform at least two (2) activities of daily**
 40 **living.**
- 41 **(3) Any other condition that the division determines by rule**
 42 **should be covered by this article.**

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Sec. 3. The caretaker support program is established.

Sec. 4. (a) The division of disability, aging, and rehabilitative services established by IC 12-9-1-1 shall administer the caretaker support program established under this chapter.

(b) The division of disability, aging, and rehabilitative services shall do the following:

(1) Adopt rules under IC 4-22-2 for the coordination and administration of the caretaker support program.

(2) Administer any state money for the caretaker support program.

Sec. 5. An individual who is at least sixty (60) years of age and:

(1) a caretaker; or

(2) an individual with special needs being taken care of by a caretaker;

is eligible for the caretaker support program.

Sec. 6. Caretaker support program services include the following services administered by the area agencies on aging:

(1) Information for caretakers about available services.

(2) Assistance to caretakers in gaining access to the services.

(3) Individual counseling, organization of support groups, and caretaker training to assist caretakers in making decisions and solving problems in the individual's role as caretaker.

(4) Respite care to offer caretakers temporary relief from caretaker responsibilities.

Sec. 7. The division shall develop and implement a client cost share formula for respite care services.

Sec. 8. When possible, the division shall make use of volunteers and volunteer groups, including faith based groups, when executing its duties under this article.

Chapter 2. Continuum of Care

Sec. 1. The division shall:

(1) provide standards for the training of; and

(2) promote best practices for;

continuum of care program providers.

Sec. 2. The division may adopt rules under IC 4-22-2 necessary to carry out this chapter.

SECTION 7. [EFFECTIVE JULY 1, 2003] (a) As used in this SECTION, "board" refers to the community and home options to institutional care for the elderly and disabled board established by IC 12-10-11-1.

(b) As used in this SECTION, "office" refers to the office of Medicaid policy and planning established by IC 12-8-6-1.

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1 (c) As used in this SECTION, "waiver" refers to the aged and
2 disabled Medicaid waiver.

3 (d) Before September 1, 2003, the office shall discuss and review
4 any amendment to the waiver required under this SECTION with
5 the board.

6 (e) Before October 1, 2003, the office shall apply to the United
7 States Department of Health and Human Services to amend the
8 waiver to include in the waiver any service that is offered under the
9 community and home options to institutional care for the elderly
10 and disabled (CHOICE) program established by IC 12-10-10-6. A
11 service provided under this subsection may not be more restrictive
12 than the corresponding service provided under IC 12-10-10.

13 (f) The office may not implement the waiver until the office files
14 an affidavit with the governor attesting that the amendment to the
15 waiver applied for under this SECTION is in effect. The office shall
16 file the affidavit under this subsection not later than five (5) days
17 after the office is notified that the waiver is approved.

18 (g) If the office receives approval for the amendment to the
19 waiver under this SECTION from the United States Department
20 of Health and Human Services and the governor receives the
21 affidavit filed under subsection (f), the office shall implement the
22 waiver not more than sixty (60) days after the governor receives
23 the affidavit.

24 (h) Before January 1, 2004, the office shall meet with the board
25 to discuss any changes to other state Medicaid waivers that are
26 necessary to provide services that may not be more restrictive than
27 the services provided under the CHOICE program. The office shall
28 recommend the changes determined necessary by this subsection
29 to the governor.

30 (i) The office may adopt rules under IC 4-22-2 necessary to
31 implement this SECTION.

32 (j) This SECTION expires December 31, 2008.

33 SECTION 8. [EFFECTIVE JULY 1, 2003] (a) As used in this
34 SECTION, "office" refers to the office of Medicaid policy and
35 planning established by IC 12-8-6-1.

36 (b) As used in this SECTION, "waiver" refers to a Medicaid
37 waiver approved by the United States Department of Health and
38 Human Services (42 U.S.C. 1396 et seq.).

39 (c) Before September 1, 2003, the office shall seek approval from
40 the United States Department of Health and Human Services to
41 amend the waiver to modify income eligibility requirements to
42 include spousal impoverishment protection provisions under 42

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1 U.S.C. 1396r-5 that are at least at the level of the spousal
 2 impoverishment protections afforded to individuals who reside in
 3 health facilities licensed under IC 16-28. The office also shall seek
 4 approval for twenty thousand (20,000) additional waiver slots.

5 (d) The office may not implement the waiver amendments until
 6 the office files an affidavit with the governor attesting that the
 7 federal waiver amendment applied for under this SECTION is in
 8 effect. The office shall file the affidavit under this subsection not
 9 later than five (5) days after the office is notified that the waiver
 10 amendment is approved.

11 (e) If the United States Department of Health and Human
 12 Services approves the waiver amendment requested under this
 13 SECTION and the governor receives the affidavit filed under
 14 subsection (d), the office shall implement the waiver amendments
 15 not more than sixty (60) days after the governor receives the
 16 affidavit.

17 (f) The office may adopt rules under IC 4-22-2 necessary to
 18 implement this SECTION.

19 (g) This SECTION expires December 31, 2008.

20 SECTION 9. [EFFECTIVE JULY 1, 2003] (a) As used in this
 21 SECTION, "office" refers to the office of Medicaid policy and
 22 planning established by IC 12-8-6-1.

23 (b) An individual who receives Medicaid services through a
 24 Medicaid waiver shall receive the following:

- 25 (1) The development of a care plan addressing the individual's
 26 needs.
- 27 (2) Advocacy on behalf of the individual's interests.
- 28 (3) The monitoring of the quality of community and home
 29 care services provided to the individual.
- 30 (4) Information and referral services on community and home
 31 care services if the individual is eligible for these services.

32 (c) The use by or on behalf of an individual receiving Medicaid
 33 waiver services of any of the following services or devices does not
 34 make the individual ineligible for services under a Medicaid
 35 waiver:

- 36 (1) Skilled nursing assistance.
- 37 (2) Supervised community and home care services, including
 38 skilled nursing supervision.
- 39 (3) Adaptive medical equipment and devices.
- 40 (4) Adaptive nonmedical equipment and devices.

41 (d) If necessary to implement this SECTION, the office shall
 42 apply to the United States Department of Health and Human

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1 Services for an amendment to a Medicaid waiver to comply with
2 this SECTION.

3 (e) If the office applies for a waiver amendment under
4 subsection (d), the office may not implement the waiver
5 amendment until the office files an affidavit with the governor
6 attesting that the federal waiver applied for under this SECTION
7 is in effect. The office shall file the affidavit under this subsection
8 not later than five (5) days after the office is notified that the
9 waiver is approved.

10 (f) If the office receives a waiver amendment under this
11 SECTION from the United States Department of Health and
12 Human Services and the governor receives the affidavit filed under
13 subsection (e), the office shall implement the waiver not more than
14 sixty (60) days after the governor receives the affidavit.

15 (g) The office may adopt rules under IC 4-22-2 necessary to
16 implement this SECTION.

17 SECTION 10. [EFFECTIVE JULY 1, 2003] (a) As used in this
18 SECTION, "office" refers to the office of the secretary of family
19 and social services established by IC 12-8-1-1.

20 (b) Before July 1, 2004, the office shall have self-directed care
21 options services available for:

22 (1) the community and home options to institutional care for
23 the elderly and disabled program established by
24 IC 12-10-10-6; and

25 (2) a Medicaid waiver;

26 for an eligible individual who chooses self-directed care services.

27 (c) This SECTION expires December 31, 2006.

28 SECTION 11. [EFFECTIVE JULY 1, 2003] The Indiana health
29 facility financing authority created by IC 5-1-16-2(a) is encouraged
30 to work with for profit health facilities and nonprofit organizations
31 that are operating under a joint agreement to convert health
32 facility beds to less intensive care beds through the issuance, sale,
33 or delivery of a bond under IC 5-1-16.

34 SECTION 12. [EFFECTIVE UPON PASSAGE] (a) Before
35 December 31, 2003, the secretary of family and social services
36 (IC 12-8-1-2) shall discuss with the community and home options
37 to institutional care for the elderly and disabled (CHOICE) board
38 established by IC 12-10-11-1, and with any other agency, volunteer,
39 volunteer group, faith based group or individual that the secretary
40 considers appropriate, the establishment of a system of integrated
41 services, including:

42 (1) transportation;



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(2) housing;
(3) education; and
(4) workforce development;
to enhance the viability and availability of home and community based care.

(b) The secretary shall report to the governor and the budget committee any recommendations for funding these services.

(c) This SECTION expires December 31, 2004.

SECTION 13. [EFFECTIVE UPON PASSAGE] (a) Before December 31, 2003, the office of the secretary of family and social services (IC 12-8-1-2) and the area agencies on aging shall calculate the number of individuals who may reasonably need care under this act, including the following individuals:

- (1) An individual receiving home and community based services under the community and home options to institutional care for the elderly and disabled (CHOICE) program established by IC 12-10-10-6.
- (2) An individual on the waiting list to receive home and community based services under the CHOICE program.
- (3) An individual receiving home and community based services under a state Medicaid waiver.
- (4) An individual on a Medicaid waiver waiting list to receive home and community based services.
- (5) An individual who receives assisted living services or adult foster care services under a Medicaid waiver.
- (6) An individual residing in a health facility licensed under IC 16-28 who may be appropriately served in a home and community based setting.

(b) Before December 31, 2003, the secretary shall report the findings under subsection (a) to the governor, the budget committee, and the budget agency.

(c) This SECTION expires December 31, 2004.

SECTION 14. [EFFECTIVE UPON PASSAGE] (a) Beginning July 1, 2003, the office of Medicaid policy and planning shall implement a policy that allows the amount of Medicaid funds necessary to provide for services to follow an individual who is transferring from institutional care to Medicaid home and community based care. The amount may not exceed the amount that would have been spent on the individual if the individual had stayed in institutional care.

SECTION 15. An emergency is declared for this act.

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SENATE MOTION

Mr. President: I move that Senator Simpson be added as second author and Senators Broden, Lawson C, Miller, Craycraft, Breaux, Sipes, Riegsecker, Skinner, Landske and Dillon be added as coauthors of Senate Bill 493.

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COMMITTEE REPORT

Mr. President: The Senate Committee on Health and Provider Services, to which was referred Senate Bill No. 493, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, between lines 4 and 5, begin a new paragraph and insert:

"SECTION 2. IC 12-7-2-24.6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 24.6. "Caretaker", for purposes of IC 12-10.5, has the meaning set forth in IC 12-10.5-1-1.**"

Page 1, between lines 8 and 9, begin a new paragraph and insert:

"SECTION 4. IC 12-7-2-180.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 180.1. "Special needs", for purposes of IC 12-10.5, has the meaning set forth in IC 12-10.5-1-2.**"

Page 1, delete lines 9 through 17.

Page 2, delete lines 1 through 8.

Page 2, line 17, delete "(a)" and insert **"This chapter is subject to funding available to the office of the secretary of family and social services.**

Sec. 3."

Page 2, delete lines 22 through 25.

Page 2, line 26, delete "Sec. 3." and insert **"Sec. 4."**

Page 2, line 29, after "in" insert **", or has been determined to be eligible for,"**

Page 2, line 32, delete ":" and insert **", which must meet the general eligibility standards for an individual receiving services under a home and community based Medicaid waiver:"**

Page 2, line 39, delete "." and insert **"or is currently residing in an institution and has been determined to be eligible for services under IC 12-10-10 or under a home and community based Medicaid waiver."**

Page 2, line 40, delete "Sec. 4." and insert **"Sec. 5."**

Page 3, line 16, delete "setting, including" and insert **"setting."**

Page 3, delete lines 17 through 21.

Page 3, line 22, delete "Sec. 5." and insert **"Sec. 6."**

Page 3, line 26, delete "shall" and insert **"may"**.

Page 3, delete lines 29 through 37, begin a new paragraph and insert:

"SECTION 7. IC 12-10.5 IS ADDED TO THE INDIANA CODE

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AS A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]:

ARTICLE 10.5. RESPITE CARE SERVICES

Chapter 1. Caretaker Support Program

Sec. 1. As used in this chapter, "caretaker" means an individual who:

- (1) provides ongoing care for an individual who:**
 - (A) is at least eighteen (18) years of age; and**
 - (B) has special needs; and**
- (2) does not receive money for the care provided under subdivision (1).**

Sec. 2. As used in this chapter, "special needs" means any of the following:

- (1) Alzheimer's disease or any related disorder.**
- (2) Inability to perform at least two (2) activities of daily living.**
- (3) Any other condition that the division determines by rule should be covered by this article.**

Sec. 3. The caretaker support program is established.

Sec. 4. (a) The division of disability, aging, and rehabilitative services established by IC 12-9-1-1 shall administer the caretaker support program established under this chapter.

(b) The division of disability, aging, and rehabilitative services shall do the following:

- (1) Adopt rules under IC 4-22-2 for the coordination and administration of the caretaker support program.**
- (2) Administer any state money for the caretaker support program.**

Sec. 5. An individual who is at least sixty (60) years of age and:

- (1) a caretaker; or**
- (2) an individual with special needs being taken care of by a caretaker;**

is eligible for the caretaker support program.

Sec. 6. Caretaker support program services include the following services administered by the area agencies on aging:

- (1) Information for caretakers about available services.**
- (2) Assistance to caretakers in gaining access to the services.**
- (3) Individual counseling, organization of support groups, and caretaker training to assist caretakers in making decisions and solving problems in the individual's role as caretaker.**
- (4) Respite care to offer caretakers temporary relief from caretaker responsibilities.**

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Sec. 7. The division shall develop and implement a client cost share formula for respite care services.

Chapter 2. Continuum of Care

Sec. 1. The division shall:

- (1) provide standards for the training of; and**
- (2) promote best practices for;**

continuum of care program providers.

Sec. 2. The division may adopt rules under IC 4-22-2 necessary to carry out this chapter."

Page 5, line 4, after "IC 16-28." insert **"The office also shall seek approval for twenty thousand (20,000) additional waiver slots."**

Page 6, delete lines 17 through 39.

Page 7, delete lines 9 through 42.

Delete page 8.

Page 9, delete lines 1 through 29, begin a new paragraph and insert:

"SECTION 12. [EFFECTIVE JULY 1, 2003] The Indiana health facility financing authority created by IC 5-1-16-2(a) is encouraged to work with for profit health facilities and nonprofit organizations that are operating under a joint agreement to convert health facility beds to less intensive care beds through the issuance, sale, or delivery of a bond under IC 5-1-16."

Page 10, line 5, after "the" insert **"office of the"**.

Page 10, delete lines 28 through 42.

Page 11, delete lines 1 through 14.

Page 11, line 15, delete "[EFFECTIVE JULY 1, 2003]" and insert **"[EFFECTIVE UPON PASSAGE]"**.

Page 11, line 15, delete "As used in this" and insert **"Beginning July 1, 2003, the office of Medicaid policy and planning shall implement a policy that allows the amount of Medicaid funds necessary to provide for services to follow an individual who is transferring from institutional care to Medicaid home and community based care. The amount may not exceed the amount that would have been spent on the individual if the individual had stayed in institutional care."**

Page 11, delete lines 16 through 42.

Page 12, delete lines 1 through 4.

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 493 as introduced.)

MILLER, Chairperson

Committee Vote: Yeas 10, Nays 0.

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SENATE MOTION

Mr. President: I move that Senator Zakas be added as coauthor of Senate Bill 493.

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SENATE MOTION

Mr. President: I move that Senate Bill 493 be amended to read as follows:

Delete the title and insert the following:

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

Page 3, between lines 19 and 20, begin a new paragraph and insert: **"Sec. 7. When possible, the office of the secretary of family and social services shall make use of volunteers and volunteer groups, including faith based groups, when executing its duties under this chapter."**

Page 4, between lines 22 and 23, begin a new paragraph and insert: **"Sec. 8. When possible, the division shall make use of volunteers and volunteer groups, including faith based groups, when executing its duties under this article."**

Page 7, line 31, delete "agency" and insert **"agency, volunteer, volunteer group, faith based group"**.

(Reference is to 493 as printed February 21, 2003.)

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