January 19, 2007

SENATE BILL No. 94

DIGEST OF SB 94 (Updated January 17, 2007 11:49 am - DI 104)

Citations Affected: Numerous provisions throughout the Indiana code.

Synopsis: Individuals with disabilities. Changes terms used to describe individuals with disabilities. (The introduced version of this bill was prepared by the code revision commission.)

Effective: Upon passage.

Landske, Kenley, Bowser, Broden

January 8, 2007, read first time and referred to Committee on Health and Provider Services.
January 18, 2007, amended, reported favorably — Do Pass.

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January 19, 2007

First Regular Session 115th General Assembly (2007)

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 2006 Regular Session of the General Assembly.

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SENATE BILL No. 94

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

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

SECTION 1. IC 1-2-10-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. American Sign Language is recognized as a standard, independent language with its own grammar, syntax, vocabulary, and cultural heritage, which is widely used by ~~hearing,~~ **individuals who hear, individuals who are** deaf, and **individuals who are** hard of hearing ~~individuals~~ in Indiana and in the United States.

SECTION 2. IC 2-3.5-4-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. (a) The surviving spouse of a participant who:

(1) dies; and

(2) on the date of death:

(A) was receiving benefits under this chapter;

(B) had completed at least ten (10) years of service as a member of the general assembly; or

(C) ~~was permanently disabled~~ **had a permanent disability** and **was** receiving benefits under section 5 of this chapter;

is entitled, regardless of the participant's age, to the benefit prescribed by subsection (b).

(b) The surviving spouse is entitled to a benefit for life equal to fifty percent (50%) of the amount of retirement benefit that:

(1) the participant was receiving at the time of death; or

(2) the participant would have been entitled to receive at fifty-five (55) years of age, or at the date of death, whichever is later.

SECTION 3. IC 2-5-27.2-4, AS AMENDED BY P.L.93-2006, SECTION 1, AND AS AMENDED BY P.L.141-2006, SECTION 2, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. The commission shall do the following:

(1) Develop a long range plan to stimulate further development of cost effective, innovative models of community based services, including recommendations that identify implementation schedules, plans for resource development, and appropriate regulatory changes.

(2) Review and make recommendations regarding any unmet needs for mental retardation and developmental disability services, including the following:

(A) Community residential and family support services.

(B) Services for aging families caring for their children who ~~are mentally retarded~~ **have mental retardation** and ~~developmentally disabled~~ adults **with a developmental disability.**

(C) Services for families in emergency or crisis situations.

(D) Services needed to move children and adults from nursing homes and state hospitals to the community.

(3) Study and make recommendations for the state to use state employees or contract with a private entity to manage and implement home and community based services waivers under 42 U.S.C. 1396n(c).

(4) Study and make recommendations regarding state funding needed to provide supplemental room and board costs for individuals who otherwise qualify for residential services under the home and community based services waivers.

(5) Monitor and recommend changes for improvements in the implementation of home and community based services waivers managed by the state or by a private entity.

(6) Review and make recommendations regarding the implementation of the comprehensive plan prepared by the developmental disabilities task force established by P.L.245-1997,

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SECTION 1.

(7) Review and make recommendations regarding the development by the division of disability ~~*aging,*~~ and rehabilitative services of a statewide plan to address quality assurance in community based services.

(8) Annually review the infants and toddlers with disabilities program established under *IC 12-12.7-2.* ~~*IC 12-17-15.*~~

SECTION 4. IC 3-5-5-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 17. A person who is:

(1) adjudged mentally ill; and

(2) committed to an institution for ~~the mentally ill,~~ **individuals with a mental illness;**

does not gain residency in the precinct in which the institution is located.

SECTION 5. IC 3-6-6-40 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 40. (a) The county election board shall conduct a training and educational meeting for precinct election officers.

(b) The board shall require inspectors to attend the meeting and may require other precinct election officers to attend the meeting. The board shall maintain a record of the attendance of each individual at the meeting conducted under this subsection.

(c) The meeting required under this section must include information:

(1) relating to making polling places and voting systems accessible to elderly voters and ~~disabled~~ voters **with a disability;** and

(2) relating to the voting systems used in the county.

The meeting may include other information relating to the duties of precinct election officers as determined by the county election board.

(d) The meeting required by this section must be held not later than the day before election day.

(e) If an individual:

(1) is appointed as a precinct election officer after the training and educational meeting conducted under this section; or

(2) demonstrates to the county election board that the individual was unable to attend the meeting due to good cause;

the county election board may authorize the individual to serve as a precinct election officer if the county election board determines that there is insufficient time to conduct the training required by this section.

SECTION 6. IC 3-7-16-2 IS AMENDED TO READ AS FOLLOWS

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[EFFECTIVE UPON PASSAGE]: Sec. 2. The general assembly finds the following:

(1) ~~Disabled~~ Persons **with a disability** will desire and should have the full opportunity to register to vote by using any registration method set forth in this article, and not merely through the agencies described in section 1 of this chapter.

(2) The offices and individuals serving ~~disabled~~ persons **with a disability** under this article should strive to develop and provide registration forms and services that are accessible to persons with disabilities.

(3) The agencies described in section 1 of this chapter are generally decentralized, and as a result:

(A) are more likely to be frequently restructured; and

(B) require significant assistance in providing training for employees or volunteers to offer voter registration services under this article.

SECTION 7. IC 4-12-4-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11. (a) The executive board shall develop:

(1) a mission statement concerning prevention and reduction of the usage of tobacco and tobacco products in Indiana, including:

(A) emphasis on prevention and reduction of tobacco use by minorities, pregnant women, children, and youth, including ~~seriously and emotionally disturbed~~ youth **with serious and emotional disturbances;**

(B) encouragement of smoking cessation;

(C) production and distribution of information concerning the dangers of tobacco use and tobacco related diseases;

(D) providing research on issues related to reduction of tobacco use;

(E) enforcement of laws concerning sales of tobacco to youth and use of tobacco by youth; and

(F) other activities that the executive board considers necessary and appropriate for inclusion in the mission statement; and

(2) a long range state plan, based on Best Practices for Tobacco Control Programs as published by the Centers for Disease Control and Prevention, for:

(A) the provision of services by the executive board, public or private entities, and individuals to implement the executive board's mission statement; and

(B) the coordination of state efforts to reduce usage of tobacco

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and tobacco products.

The executive board shall update the mission statement and long range state plan as necessary to carry out the purposes of this chapter.

(b) The long range state plan described in subsection (a) must:

(1) cover a period of at least five (5) years;

(2) include base line data concerning tobacco usage;

(3) set forth specific goals for prevention and reduction of tobacco usage in Indiana; and

(4) be made available to the governor, the general assembly, and any other appropriate state or federal agency.

SECTION 8. IC 4-15-2-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 18. (a) The rating of each test shall be completed and the resulting list established not later than thirty (30) days after the date on which the test was held, unless such time is extended by the director for reasons which the director shall record in the official records of the department. The final earned rating of each person competing in any test shall be determined by the weighted average of the earned ratings of the test, according to weights for each phase established by the director in advance of the giving of the test. The names of all persons attaining the minimum final earned ratings established by the director in advance of the giving of the tests shall be placed upon the eligible list in order of their ratings. The names of persons who have indicated in writing that they are unwilling to accept appointment may be dropped from the list. All persons competing in any test shall be given written notice of their final earned ratings. Statements of former employers of the applicants shall be confidential. A manifest error in rating a test shall be corrected if called to the attention of the director, but such correction shall not invalidate any appointment previously made from such a list.

(b) In certification for appointment, in appointment, in reinstatement, and in reemployment in any state service, preference shall be given to former members of the military services of the United States who served on active duty in any branch of the armed forces and who at no time received a discharge or separation under other than honorable conditions, except corrected separation or discharge to read "honorable" as evidenced by appropriate records presented from the United States Department of Defense or appropriate branch of the military service.

(c) Preference shall be given in the following priorities:

(1) Former members of the military service who have established the present existence of a service connected disability of ten percent (10%) or more, as evidenced by records of the United

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States Department of Veterans Affairs or disability retirement benefits as evidenced by laws administered by the United States Department of Defense.

(2) The spouse of ~~such service connected disabled veterans~~ **a veteran with a service connected disability** and the unremarried spouse of deceased veterans.

(3) Those former members of the military service who are wartime veterans.

(4) Veterans of the military service who served more than one hundred eighty-one (181) days on active duty, regardless of when served.

(d) In all written examinations to determine the qualifications of applicants for entrance into state service:

(1) ten (10) points shall be added to the earned rating of persons taking competitive examination under subsection (c)(1) or (c)(2);

(2) five (5) points shall be added to the earned ratings of persons taking competitive examination under subsection (c)(3); and

(3) two (2) points shall be added to the earned rating of persons taking competitive examination under subsection (c)(4).

(e) All points specified in subsection (d) shall be added to the total combined test scores of the person and shall not be allocated to any single feature or part of the competitive examination. Rating shall be based on a scale of one hundred (100) points as the maximum attainable.

(f) When veterans preference in state service employment is limited to wartime veterans, this subsection applies for the purpose of defining "war":

(1) World War II - December 7, 1941, to December 31, 1946.

(2) Korean Conflict - June 27, 1950, to January 31, 1955.

(3) Viet Nam Conflict - August 5, 1964, to May 7, 1975.

(4) Actual combat or duty equally hazardous, regardless of time, or service in any foreign war, insurrection, or expedition, which service is recognized by the award of a service or campaign medal of the United States.

(5) Participation as a regularly assigned crew member of any military craft in a mission in support of a military operation, regardless of time, as designated by the armed forces of the United States.

(g) Active duty consists of:

(1) ninety (90) days or more wartime service;

(2) ninety (90) days or more consecutive service which began or ended during wartime period;

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(3) ninety (90) days or more combined service in two (2) or more wartime periods;

(4) service of less than ninety (90) days, if discharged for a disability in **the** line of duty; or

(5) service qualifying under subsection (f)(4) or (f)(5), which must be documented by appropriate records of the United States Department of Defense.

(h) In examinations where experience is an element of qualification, time spent in the armed forces of the United States shall be credited in a veteran's rating where the veteran's actual employment in a similar vocation to that for which the veteran is examined was interrupted by such service. In all examinations to determine the qualifications of a veteran applicant, credit shall be given for all valuable experience, including experience gained in religious, civic, welfare, service, and organizational activities, regardless of whether any compensation was received for the experience.

(i) In determining qualifications for examination, appointment, promotion, retention, transfer, or reinstatement, with respect to preference eligibles, the department shall waive requirements as to age, height, and weight, if the requirement is not essential to the performance of the duties of the position for which examination is given. The department, after giving due consideration to the recommendation of any accredited physician, shall waive the physical requirements in the case of any veteran, if the veteran is, in the opinion of the director, physically able to discharge efficiently the duties of the position for which the examination is given. No minimum educational requirement may be prescribed in any civil service examination except for such scientific, technical, or professional positions, the duties of which the department decides cannot be performed by a person who does not have such education. The director shall make a part of the department's public records the director's reasons for such decision.

(j) The names of preference eligibles shall be entered on the appropriate registers or lists of eligibles in accordance with their respective augmented ratings. The name of a preference eligible shall be entered ahead of all others having the same rating.

(k) The director shall adopt appropriate rules under IC 4-22-2 for the administration and enforcement of this section.

(l) In any reduction in personnel in any state service, competing employees shall be released in accordance with board regulations which shall give due effect to tenure of employment, military preference, length of service, and efficiency ratings. The length of time spent in active service in the armed forces of the United States of each

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such employee shall be credited in computing length of total service. Veteran's preference points shall be added to the retention score of a preference eligible. When any of the functions of any state agency are transferred to, or when any state agency is replaced by, some other state agency or agencies, all preference employees in the function or functions transferred or in the agency replaced shall first be transferred to the replacing agency or agencies for employment in positions for which they are qualified, before the agency or agencies appoint additional employees from any other sources for such positions.

(m) Any preference eligible who has resigned may, at the request of any appointing officer, be certified for and appointed to any position for which the preference eligible has been a regular employee in the state service.

(n) Any preference eligible who has been furloughed or separated without delinquency or misconduct, upon request, shall have the preference eligible's name placed on all appropriate registers and employment lists, for every position for which the preference eligible's qualifications have been established.

(o) Applicants claiming preference of their own service must submit either:

(1) original discharge or separation or certified copies or photostat copies of the originals;

(2) an official statement from the United States Department of Defense showing record of service; or

(3) an official statement from the United States Department of Veterans Affairs supporting the claim for disability.

SECTION 9. IC 4-15-12-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. As used in this chapter:

"Affected class" means:

(1) minorities;

(2) women;

(3) persons with disabilities; and

(4) persons forty (40) years of age and older.

"Affirmative action policy" means the state's affirmative action policy established in section 2 of this chapter.

"Persons with disabilities" means all persons who by reason of physical or mental ~~defect~~ **disability** are unable to achieve full vocational participation.

"Minorities" means persons identified as Blacks, Native Americans, Asian Americans, and Hispanics.

"Office" means the Indiana affirmative action office created by this

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chapter.

"State agency" means any department, agency, commission, division, authority, board, bureau, or office of the state under the executive authority of the governor, except any state institution of postsecondary education.

"Underutilization" means having fewer members of an affected class in a particular job category and classification than would be reasonably expected by their availability in the labor market for that job category and classification.

SECTION 10. IC 4-23-7.1-40.5, AS AMENDED BY P.L.27-2006, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 40.5. (a) For purposes of this section, "accessible electronic information service" means a service that provides to an eligible individual news and other timely information, including newspapers, from a multistate service center, using high speed computers and telecommunications technology for Internet acquisition of content and rapid distribution in a form appropriate for use by an eligible individual.

(b) For purposes of this section, "director" refers to the director of the Indiana talking books and braille division of the Indiana state library.

(c) For purposes of this section, "eligible individual" means an individual who is blind or ~~disabled~~ **has a disability** and qualifies for services under 36 CFR 701.10(b).

(d) For purposes of this section, "qualified entity" means an agency, instrumentality, or political subdivision of the state or a nonprofit organization that:

(1) using computer technology, produces audio or braille editions of daily news reports, including newspapers, for the purpose of providing eligible individuals with access to news;

(2) obtains electronic news text through direct transfer arrangements made with participating news organizations; and

(3) provides a means of program administration and reader registration on the Internet.

(e) The director may enter into an agreement with a qualified entity to provide an accessible electronic information service for eligible individuals. This service shall be planned for continuation from year to year and make maximum use of federal and other funds available by:

(1) obtaining grants or in kind support from appropriate programs; and

(2) securing access to low cost interstate rates for telecommunications by reimbursement or otherwise.

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(f) The accessible electronic information service fund is established for purposes of this section. The fund consists of appropriations from the general assembly, loan proceeds, and gifts and grants to the fund.

(g) The treasurer of state shall invest the money in the accessible electronic information service fund not currently needed to meet the obligations of the fund in the same manner as other public funds may be invested.

(h) The money in the accessible electronic information service fund at the end of a state fiscal year does not revert to the state general fund but remains in the fund to be used exclusively for purposes of this section.

SECTION 11. IC 5-1-16-1, AS AMENDED BY P.L.141-2006, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. As used in this chapter:

"Authority" refers to the Indiana health and educational 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.

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(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 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;

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;~~

(A) individuals with a physical, mental, or emotional disability;

(B) individuals with a physical or mental illness; or

(C) the elderly; or

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(3) is a licensed child caring institution providing residential care described in IC 12-7-2-29(1) or corresponding provisions of the laws of the state in which the property is located.

"Health facility" means any facility or building that is:

(1) owned or used by a participating provider;

(2) located:

(A) in Indiana; or

(B) outside Indiana, if the participating provider that operates the facility or building, or an affiliate of the participating provider, also operates a substantial health facility or facilities, as determined by the authority, in Indiana; and

(3) utilized, directly or indirectly:

(A) in:

(i) health care;

(ii) habilitation, rehabilitation, or therapeutic services;

(iii) medical research;

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

(v) any related supporting services;

(B) to provide a residential facility for:

~~(i) the physically, mentally, or emotionally disabled;~~

~~(ii) the physically or mentally ill;~~

(i) individuals with a physical, mental, or emotional disability;

(ii) individuals with a physical or mental illness; or

(iii) the elderly; or

(C) as a child caring institution and provides residential care described in IC 12-7-2-29(1) or corresponding provisions of the laws of the state in which the facility or building is located.

"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 located in Indiana or outside Indiana;

(2) contracts with the authority for the financing or refinancing of, or the lease or other acquisition of, health facility property that is located:

(A) in Indiana; or

(B) outside Indiana, if the financing, refinancing, lease, or other acquisition also includes a substantial component, as determined by the authority, for the benefit of a health facility

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or facilities located in Indiana;

(3) is:

(A) licensed under IC 12-25, IC 16-21, IC 16-28, or corresponding laws of the state in which the property is located;

(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 or corresponding provisions of laws of the state in which the property is located);

(D) an entity that:

(i) contracts with the division of disability and rehabilitative services or the division of mental health and addiction to provide the program described in IC 12-11-1.1-1(e) or IC 12-22-2; or

(ii) provides a similar program under the laws of the state in which the entity is located;

(E) a vocational rehabilitation center established under IC 12-12-1-4.1(a)(1) or corresponding provisions of the laws of the state in which the property is located;

(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,~~ **individuals with a physical, mental, or emotional disability, individuals with a physical or mental illness,** or the elderly;

(G) a licensed child caring institution providing residential care described in IC 12-7-2-29(1) or corresponding provisions of the laws of the state in which the property is located;

(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

(4) in the case of a person, corporation, municipal corporation,

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political subdivision, or other entity located outside Indiana, is owned or controlled by, under common control with, affiliated with, or part of an obligated group that includes an entity that provides one (1) or more of the following services or facilities in Indiana:

(A) A facility that provides:

(i) health care;

(ii) habilitation, rehabilitation, or therapeutic services;

(iii) medical research;

(iv) training or teaching of health care personnel; or

(v) any related supporting services.

(B) A residential facility for:

~~(i) the physically, mentally, or emotionally disabled;~~

~~(ii) the physically or mentally ill;~~

(i) individuals with a physical, mental, or emotional disability;

(ii) individuals with a physical or mental illness; or

(iii) the elderly.

(C) A child caring institution providing residential care described in IC 12-7-2-29(1).

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

(1) is:

(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 hospitals; or

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

SECTION 12. IC 5-10-5.5-12.7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 12.7. (a) Upon a petition from a participant, the department, or the commission, the board of trustees of the public employees' retirement fund, or its designee, shall make the determinations required by section 13 of this chapter and shall also determine:

(1) the degree of impairment of any officer determined to ~~be disabled,~~ **have a disability;** and

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(2) whether the disability arose in the line of duty (as defined in section 13.5 of this chapter).

(b) The impairment standards contained in the United States Department of Veterans Affairs Schedule for Rating Disabilities in effect at the time the application for disability benefits is filed with the board of trustees shall be used to determine the degree of impairment.

(c) To the extent required by the Americans with Disabilities Act, the transcripts, reports, records, and other material generated as a result of a hearing, a review, or an appeal conducted under this chapter to determine the existence of a disability, the cause of a disability, or the degree of impairment shall be:

(1) kept in separate medical files for each member; and

(2) treated as confidential medical records.

SECTION 13. IC 5-10-8-2.2, AS AMENDED BY P.L.2-2005, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2.2. (a) As used in this section, "dependent" means a natural child, stepchild, or adopted child of a public safety employee who:

(1) is less than eighteen (18) years of age;

(2) is **at least** eighteen (18) years of age ~~or older~~ and ~~physically or mentally disabled~~ **has a physical or mental disability** (using disability guidelines established by the Social Security Administration); or

(3) is at least eighteen (18) and less than twenty-three (23) years of age and is enrolled in and regularly attending a secondary school or is a full-time student at an accredited college or university.

(b) As used in this section, "public safety employee" means a full-time firefighter, police officer, county police officer, or sheriff.

(c) This section applies only to local unit public employers and their public safety employees.

(d) A local unit public employer may provide programs of group health insurance for its active and retired public safety employees through one (1) of the following methods:

(1) By purchasing policies of group insurance.

(2) By establishing self-insurance programs.

(3) By electing to participate in the local unit group of local units that offer the state employee health plan under section 6.6 of this chapter.

A local unit public employer may provide programs of group insurance other than group health insurance for the local unit public employer's active and retired public safety employees by purchasing policies of

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group insurance and by establishing self-insurance programs. However, the establishment of a self-insurance program is subject to the approval of the unit's fiscal body.

(e) A local unit public employer may pay a part of the cost of group insurance for its active and retired public safety employees. However, a local unit public employer that provides group life insurance for its active and retired public safety employees shall pay a part of the cost of that insurance.

(f) A local unit public employer may not cancel an insurance contract under this section during the policy term of the contract.

(g) After June 30, 1989, a local unit public employer that provides a group health insurance program for its active public safety employees shall also provide a group health insurance program to the following persons:

(1) Retired public safety employees.

(2) Public safety employees who are receiving disability benefits under IC 36-8-6, IC 36-8-7, IC 36-8-7.5, IC 36-8-8, or IC 36-8-10.

(3) Surviving spouses and dependents of public safety employees who die while in active service or after retirement.

(h) A ~~retired or disabled~~ public safety employee who is **retired or has a disability is** eligible for group health insurance coverage under subsection (g)(1) or (g)(2):

(1) may elect to have the person's spouse, dependents, or spouse and dependents covered under the group health insurance program at the time the person retires or becomes disabled;

(2) must file a written request for insurance coverage with the employer within ninety (90) days after the person retires or begins receiving disability benefits; and

(3) must pay an amount equal to the total of the employer's and the employee's premiums for the group health insurance for an active public safety employee (however, the employer may elect to pay any part of the person's premiums).

(i) Except as provided in IC 36-8-6-9.7(f), IC 36-8-6-10.1(h), IC 36-8-7-12.3(g), IC 36-8-7-12.4(j), IC 36-8-7.5-13.7(h), IC 36-8-7.5-14.1(i), IC 36-8-8-13.9(d), IC 36-8-8-14.1(h), and IC 36-8-10-16.5 for a surviving spouse or dependent of a public safety employee who dies in the line of duty, a surviving spouse or dependent who is eligible for group health insurance under subsection (g)(3):

(1) may elect to continue coverage under the group health insurance program after the death of the public safety employee;

(2) must file a written request for insurance coverage with the employer within ninety (90) days after the death of the public

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safety employee; and

(3) must pay the amount that the public safety employee would have been required to pay under this section for coverage selected by the surviving spouse or dependent (however, the employer may elect to pay any part of the surviving spouse's or dependents' premiums).

(j) ~~A retired or disabled public safety employee's~~ **The** eligibility for group health insurance under this section **for a public safety employee who is retired or has a disability** ends on the earlier of the following:

(1) When the public safety employee becomes eligible for Medicare coverage as prescribed by 42 U.S.C. 1395 et seq.

(2) When the employer terminates the health insurance program for active public safety employees.

(k) A surviving spouse's eligibility for group health insurance under this section ends on the earliest of the following:

(1) When the surviving spouse becomes eligible for Medicare coverage as prescribed by 42 U.S.C. 1395 et seq.

(2) When the unit providing the insurance terminates the health insurance program for active public safety employees.

(3) The date of the surviving spouse's remarriage.

(4) When health insurance becomes available to the surviving spouse through employment.

(l) A dependent's eligibility for group health insurance under this section ends on the earliest of the following:

(1) When the dependent becomes eligible for Medicare coverage as prescribed by 42 U.S.C. 1395 et seq.

(2) When the unit providing the insurance terminates the health insurance program for active public safety employees.

(3) When the dependent no longer meets the criteria set forth in subsection (a).

(4) When health insurance becomes available to the dependent through employment.

(m) A public safety employee who is on leave without pay is entitled to participate for ninety (90) days in any group health insurance program maintained by the local unit public employer for active public safety employees if the public safety employee pays an amount equal to the total of the employer's and the employee's premiums for the insurance. However, the employer may pay all or part of the employer's premium for the insurance.

(n) A local unit public employer may provide group health insurance for retired public safety employees or their spouses not covered by subsections (g) through (l) and may provide group health

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insurance that contains provisions more favorable to retired public safety employees and their spouses than required by subsections (g) through (l). A local unit public employer may provide group health insurance to a public safety employee who is on leave without pay for a longer period than required by subsection (m), and may continue to pay all or a part of the employer's premium for the insurance while the employee is on leave without pay.

SECTION 14. IC 5-10-14-3, AS ADDED BY P.L.24-2005, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) If the state police department offers health coverage for active employees, the state police department shall offer to provide and pay for health coverage under the health coverage plan provided for active employees for:

(1) the surviving spouse; and

(2) each natural child, stepchild, and adopted child;

of an employee who dies in the line of duty, regardless of whether the death occurs before July 1, 2005, or on or after July 1, 2005.

(b) The health coverage for a surviving natural child, stepchild, or adopted child provided under subsection (a) continues:

(1) until the child becomes eighteen (18) years of age;

(2) if the child is:

(A) enrolled in and regularly attending a secondary school; or

(B) a full-time student at an accredited college or university;

until the child becomes twenty-three (23) years of age; or

(3) if the child ~~is physically or mentally disabled,~~ **has a physical or mental disability,** until the end of the physical or mental disability;

whichever period is longest.

(c) If the state police department offers health coverage to active employees, the health coverage that the state police department provides to a surviving spouse or a natural child, a stepchild, or an adopted child under this section must be equal to that offered to active employees.

(d) The state police department's offer to provide and pay for health coverage under subsection (a) must remain open as long as the state police department continues to offer the health coverage for active employees, and:

(1) a surviving spouse is eligible for the health coverage under subsection (a); or

(2) a natural child, a stepchild, or an adopted child is eligible for the health coverage under subsections (a) and (b).

SECTION 15. IC 5-10.2-3-7.5 IS AMENDED TO READ AS

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FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7.5. (a) A surviving dependent or surviving spouse of a member who dies in service is entitled to a survivor benefit if:

(1) the member dies after March 31, 1990;

(2) the member has:

(A) at least ten (10) years of creditable service, if the member died in service as a member of the general assembly;

(B) at least fifteen (15) years of creditable service, if the member died in service in any other position covered by the retirement fund; or

(C) at least ten (10) years but not more than fourteen (14) years of creditable service if the member:

(i) was at least sixty-five (65) years of age; and

(ii) died in service in a position covered by the teachers' retirement fund; and

(3) the surviving dependent or surviving spouse qualifies for a survivor benefit under subsection (b) or (c).

(b) If a member described in subsection (a) dies with a surviving spouse who was married to the member for at least two (2) years, the surviving spouse is entitled to a survivor benefit equal to the monthly benefit that would have been payable to the spouse under the joint and survivor option of IC 5-10.2-4-7 upon the member's death following retirement at:

(1) fifty (50) years of age; or

(2) the actual date of death;

whichever is later. However, benefits payable under this subsection are subject to subsections (e) and (g).

(c) If a member described in subsection (a) dies without a surviving spouse who was married to the member for at least two (2) years, but with a surviving dependent, the surviving dependent is entitled to a survivor benefit in a monthly amount equal to the actuarial equivalent of the monthly benefit that would have been payable to the spouse (assuming the spouse would have had the same birth date as the member) under the joint and survivor option of IC 5-10.2-4-7 upon the member's death following retirement at:

(1) fifty (50) years of age; or

(2) the actual date of death;

whichever is later. If there are two (2) or more surviving dependents, the actuarial equivalent of the benefit described in this subsection shall be calculated and, considering the dependents' attained ages, an equal dollar amount shall be determined as the monthly benefit to be paid to each dependent. Monthly benefits under this subsection are payable

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until the date the dependent becomes eighteen (18) years of age or dies, whichever is earlier. However, if a dependent ~~is permanently and totally disabled~~ **has a permanent and total disability** (using disability guidelines established by the Social Security Administration) at the date the dependent reaches eighteen (18) years of age, the monthly benefit is payable until the date the dependent ~~is~~ no longer ~~disabled~~ **has a disability** (using disability guidelines established by the Social Security Administration) or dies, whichever is earlier. Benefits payable under this subsection are subject to subsections (e) and (g).

(d) Except as provided in subsections (e) and (h), the surviving spouse or surviving dependent of a member who is entitled to a survivor benefit under subsection (b) or (c) or section 7.6 of this chapter may elect to receive a lump sum payment of the total amount credited to the member in the member's annuity savings account or an amount equal to the member's federal income tax basis in the member's annuity savings account as of December 31, 1986. A surviving spouse or surviving dependent who makes such an election is not entitled to an annuity as part of the survivor benefit under subsection (b) or (c) or section 7.6 of this chapter to the extent of the lump sum payment.

(e) If a member described in subsection (a) or section 7.6(a) of this chapter is survived by a designated beneficiary who is not a surviving spouse or surviving dependent entitled to a survivor benefit under subsection (b) or (c) or section 7.6 of this chapter, the following provisions apply:

(1) If the member is survived by one (1) designated beneficiary, the designated beneficiary is entitled to receive in a lump sum or over a period of up to five (5) years, as elected by the designated beneficiary, the amount credited to the member's annuity savings account, less any disability benefits paid to the member.

(2) If the member is survived by two (2) or more designated beneficiaries, the designated beneficiaries are entitled to receive in a lump sum or over a period of up to five (5) years, as elected by the designated beneficiary, equal shares of the amount credited to the member's annuity savings account, less any disability benefits paid to the member.

(3) If the member is also survived by a spouse or dependent who is entitled to a survivor benefit under subsection (b) or (c) or section 7.6 of this chapter, the surviving spouse or dependent is not entitled to an annuity or a lump sum payment as part of the survivor benefit, unless the surviving spouse or dependent is also a designated beneficiary.

(f) If a member dies:

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(1) without a surviving spouse or surviving dependent who qualifies for survivor benefits under subsection (b) or (c) or section 7.6 of this chapter; and

(2) without a surviving designated beneficiary who is entitled to receive the member's annuity savings account under subsection (e);

the amount credited to the member's annuity savings account, less any disability benefits paid to the member, shall be paid to the member's estate.

(g) Survivor benefits payable under this section or section 7.6 of this chapter shall be reduced by any disability benefits paid to the member.

(h) Additional annuity contributions, if any, shall not be included in determining survivor benefits under subsection (b) or (c) or section 7.6 of this chapter, but are payable in a lump sum payment to:

(1) the member's surviving designated beneficiary; or

(2) the member's estate, if there is no surviving designated beneficiary.

(i) Survivor benefits provided under this section or section 7.6 of this chapter are subject to IC 5-10.2-2-1.5.

(j) A benefit specified in this section shall be forfeited and credited to the member's retirement fund if no person entitled to the benefit claims it within three (3) years after the member's death. However, the board may honor a claim that is made more than three (3) years after the member's death if the board finds, in the board's discretion, that:

(1) the delay in making the claim was reasonable or other extenuating circumstances justify the award of the benefit to the claimant; and

(2) paying the claim would not cause a violation of the applicable Internal Revenue Service rules.

SECTION 16. IC 5-10.2-3-7.6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7.6. (a) This section applies to the surviving spouse and the surviving dependent of a member who:

(1) dies after June 30, 1996;

(2) has at least thirty (30) years of creditable service; and

(3) dies in service in a position covered by the fund.

(b) If a member described in subsection (a) dies with a surviving spouse who was married to the member for at least two (2) years, the board may determine that the surviving spouse is entitled to a survivor benefit equal to the monthly benefit that would have been payable to the spouse under the joint and survivor option of IC 5-10.2-4-7 upon the member's death following retirement at:

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(1) fifty-five (55) years of age; or

(2) the actual date of death;

whichever is later. However, benefits payable under this section are subject to IC 5-10.2-3-7.5(e) and IC 5-10.2-3-7.5(g).

(c) If a member described in subsection (a) dies without a surviving spouse who was married to the member for at least two (2) years, but with a surviving dependent, the board may determine that the surviving dependent is entitled to a survivor benefit in a monthly amount equal to the actuarial equivalent of the monthly benefit that would have been payable to the spouse (assuming the spouse would have had the same birth date as the member) under the joint and survivor option of IC 5-10.2-4-7 upon the member's death following retirement at:

(1) fifty-five (55) years of age; or

(2) the actual date of death;

whichever is later. If there are two (2) or more surviving dependents, the actuarial equivalent of the benefit described in this subsection shall be calculated and, considering the dependents' attained ages, an equal dollar amount shall be determined as the monthly benefit to be paid to each dependent. Monthly benefits under this subsection are payable until the date the dependent becomes eighteen (18) years of age or dies, whichever is earlier. However, if a dependent ~~is permanently and totally disabled~~ **has a permanent and total disability** (using disability guidelines established by the Social Security Administration) ~~at~~ **on** the date the dependent ~~reaches~~ **becomes** eighteen (18) years of age, the monthly benefit is payable until the date the dependent ~~is~~ no longer ~~disabled~~ **has a disability** (using disability guidelines established by the Social Security Administration) or dies, whichever is earlier. Benefits payable under this section are subject to IC 5-10.2-3-7.5(e) and IC 5-10.2-3-7.5(g).

SECTION 17. IC 5-10.3-8-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 12. The board may stop a member's benefit if either of the following occurs:

(1) The member does any of the following while receiving the benefit:

(A) Fails to report for a required examination, unless excused by the board.

(B) Disobeys the requirements of the board regarding the examination.

(C) Refuses to repay an overpayment of benefits.

(2) The board has reasonable cause to believe:

(A) that the member has died; or

(B) in the case of a member receiving disability benefits under

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IC 5-10.2-4-6, that the member ~~is~~ no longer ~~disabled.~~ **has a disability.**

SECTION 18. IC 5-10.4-5-15, AS ADDED BY P.L.2-2006, SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 15. (a) The board may stop a member's benefit if the member does any of the following while receiving the benefit:

(1) Fails to report for a required examination, unless excused by the board.

(2) Disobeys the requirements of the board regarding the examination.

(3) Refuses to repay an overpayment of benefits.

(b) The board also may stop a member's benefit if the board has reasonable cause to believe that:

(1) the member has died; or

(2) in the case of a member receiving disability benefits under IC 5-10.2-4-6 or classroom disability benefits under section 1 of this chapter, the member ~~is~~ no longer ~~disabled.~~ **has a disability.**

SECTION 19. IC 5-20-1-2, AS AMENDED BY P.L.145-2006, SECTION 11, AND AS AMENDED BY P.L.181-2006, SECTION 17, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: 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 of the United States 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 of the United States, or any entity or corporation acceptable to the authority, other than the sponsor.

"Authority" means the Indiana housing and community development authority created ~~*under*~~ *by section 3 of* 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

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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;

(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

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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.

(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,*~~ *IC 31-27;*

(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 mental health and addiction under IC 12-23.

"Residential facility for ~~the developmentally disabled"~~ **persons with a developmental disability"** means a facility that is approved for use in a community residential program for the developmentally disabled under IC 12-11-1.1.

"Residential facility for ~~the mentally ill"~~ **persons with a mental illness"** means a facility that is approved by the division of mental health and addiction 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

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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 to the housing, and such other nonhousing facilities as may be incidental or appurtenant to the housing.

"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.

"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 20. IC 5-20-1-4, AS AMENDED BY P.L.145-2006, SECTION 12, AND AS AMENDED BY P.L.181-2006, SECTION 18, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) The authority has all of the powers necessary or convenient to carry out and effectuate the purposes and provisions of this chapter, including the power:

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(1) to make or participate in the making of construction loans to sponsors of multiple family residential housing that is federally assisted or assisted by a government sponsored enterprise, such as the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, or the Federal Agricultural Mortgage Corporation, the Federal Home Loan Bank, and other similar entities approved by the authority;

(2) to make or participate in the making of mortgage loans to sponsors of multiple family residential housing that is federally assisted or assisted by a government sponsored enterprise, such as the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, or the Federal Agricultural Mortgage Corporation, the Federal Home Loan Bank, and other similar entities approved by the authority;

(3) to purchase or participate in the purchase from mortgage lenders of mortgage loans made to persons of low and moderate income for residential housing;

(4) to make loans to mortgage lenders for the purpose of furnishing funds to such mortgage lenders to be used for making mortgage loans for persons and families of low and moderate income. However, the obligation to repay loans to mortgage lenders shall be general obligations of the respective mortgage lenders and shall bear such date or dates, shall mature at such time or times, shall be evidenced by such note, bond, or other certificate of indebtedness, shall be subject to prepayment, and shall contain such other provisions consistent with the purposes of this chapter as the authority shall by rule or resolution determine;

(5) to collect and pay reasonable fees and charges in connection with making, purchasing, and servicing of its loans, notes, bonds, commitments, and other evidences of indebtedness;

(6) to acquire real property, or any interest in real property, by conveyance, including purchase in lieu of foreclosure, or foreclosure, to own, manage, operate, hold, clear, improve, and rehabilitate such real property and sell, assign, exchange, transfer, convey, lease, mortgage, or otherwise dispose of or encumber such real property where such use of real property is necessary or appropriate to the purposes of the authority;

(7) to sell, at public or private sale, all or any part of any mortgage or other instrument or document securing a construction loan, a land development loan, a mortgage loan, or a loan of any type permitted by this chapter;

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(8) to procure insurance against any loss in connection with its operations in such amounts and from such insurers as it may deem necessary or desirable;

(9) to consent, subject to the provisions of any contract with noteholders or bondholders which may then exist, whenever it deems it necessary or desirable in the fulfillment of its purposes to the modification of the rate of interest, time of payment of any installment of principal or interest, or any other terms of any mortgage loan, mortgage loan commitment, construction loan, loan to lender, or contract or agreement of any kind to which the authority is a party;

(10) to enter into agreements or other transactions with any federal, state, or local governmental agency for the purpose of providing adequate living quarters for such persons and families in cities and counties where a need has been found for such housing;

(11) to include in any borrowing such amounts as may be deemed necessary by the authority to pay financing charges, interest on the obligations (for a period not exceeding the period of construction and a reasonable time thereafter or if the housing is completed, two (2) years from the date of issue of the obligations), consultant, advisory, and legal fees and such other expenses as are necessary or incident to such borrowing;

(12) to make and publish rules respecting its lending programs and such other rules as are necessary to effectuate the purposes of this chapter;

(13) to provide technical and advisory services to sponsors, builders, and developers of residential housing and to residents and potential residents, including housing selection and purchase procedures, family budgeting, property use and maintenance, household management, and utilization of community resources;

(14) to promote research and development in scientific methods of constructing low cost residential housing of high durability;

(15) to encourage community organizations to participate in residential housing development;

(16) to make, execute, and effectuate any and all agreements or other documents with any governmental agency or any person, corporation, association, partnership, limited liability company, or other organization or entity necessary or convenient to accomplish the purposes of this chapter;

(17) to accept gifts, devises, bequests, grants, loans, appropriations, revenue sharing, other financing and assistance

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and any other aid from any source whatsoever and to agree to, and to comply with, conditions attached thereto;

(18) to sue and be sued in its own name, plead and be impleaded;

(19) to maintain an office in the city of Indianapolis and at such other place or places as it may determine;

(20) to adopt an official seal and alter the same at pleasure;

(21) to adopt and from time to time amend and repeal bylaws for the regulation of its affairs and the conduct of its business and to prescribe rules and policies in connection with the performance of its functions and duties;

(22) to employ fiscal consultants, engineers, attorneys, real estate counselors, appraisers, and such other consultants and employees as may be required in the judgment of the authority and to fix and pay their compensation from funds available to the authority therefor;

(23) notwithstanding IC 5-13, but subject to the requirements of any trust agreement entered into by the authority, to invest:

(A) the authority's money, funds, and accounts;

(B) any money, funds, and accounts in the authority's custody; and

(C) proceeds of bonds or notes;

in the manner provided by an investment policy established by resolution of the authority;

(24) to make or participate in the making of construction loans, mortgage loans, or both, to individuals, partnerships, limited liability companies, corporations, and organizations for the construction of residential facilities for ~~the developmentally disabled~~ **individuals with a developmental disability** or for ~~the mentally ill~~ **individuals with a mental illness** or for the acquisition or renovation, or both, of a facility to make it suitable for use as a new residential facility for ~~the developmentally disabled~~ **individuals with a developmental disability** or for ~~the mentally ill,~~ **individuals with a mental illness;**

(25) to make or participate in the making of construction and mortgage loans to individuals, partnerships, corporations, limited liability companies, and organizations for the construction, rehabilitation, or acquisition of residential facilities for children;

(26) to purchase or participate in the purchase of mortgage loans from:

(A) public utilities (as defined in IC 8-1-2-1); or

(B) municipally owned gas utility systems organized under IC 8-1.5;

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if those mortgage loans were made for the purpose of insulating and otherwise weatherizing single family residences in order to conserve energy used to heat and cool those residences;

(27) to provide financial assistance to mutual housing associations (IC 5-20-3) in the form of grants, loans, or a combination of grants and loans for the development of housing for low and moderate income families;

(28) to service mortgage loans made or acquired by the authority and to impose and collect reasonable fees and charges in connection with such servicing; ~~*and*~~

(29) subject to the authority's investment policy, to enter into swap agreements (as defined in IC 8-9.5-9-4) in accordance with IC 8-9.5-9-5 and IC 8-9.5-9-7;

(30) to promote and foster community revitalization through community services and real estate development;

(31) to coordinate and establish linkages between governmental and other social services programs to ensure the effective delivery of services to low income individuals;

(32) to cooperate with local housing officials and plan commissions in the development of projects that the officials or commissions have under consideration;

(33) to take actions necessary to implement its powers that the authority determines to be appropriate and necessary to ensure the availability of state or federal financial assistance; and

(34) to administer any program or money designated by the state or available from the federal government or other sources that is consistent with the authority's powers and duties.

The omission of a power from the list in this subsection does not imply that the authority lacks that power. The authority may exercise any power that is not listed in this subsection but is consistent with the powers listed in this subsection to the extent that the power is not expressly denied by the Constitution of the State of Indiana or by another statute.

(b) The authority shall structure and administer any program conducted under subsection (a)(3) or (a)(4) in order to assure that no mortgage loan shall knowingly be made to a person whose adjusted family income shall exceed one hundred twenty-five percent (125%) of the median income for the geographic area within which the person resides and at least forty percent (40%) of the mortgage loans so financed shall be for persons whose adjusted family income shall be below eighty percent (80%) of the median income for such area.

(c) In addition to the powers set forth in subsection (a), the authority

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may, with the proceeds of bonds and notes sold to retirement plans covered by IC 5-10-1.7, structure and administer a program of purchasing or participating in the purchasing from mortgage lenders of mortgage loans made to qualified members of retirement plans and other individuals. The authority shall structure and administer any program conducted under this subsection to assure that:

(1) each mortgage loan is made as a first mortgage loan for real property:

(A) that is a single family dwelling, including a condominium or townhouse, located in Indiana;

(B) for a purchase price of not more than ninety-five thousand dollars ($95,000);

(C) to be used as the purchaser's principal residence; and

(D) for which the purchaser has made a down payment in an amount determined by the authority;

(2) no mortgage loan exceeds seventy-five thousand dollars ($75,000);

(3) any bonds or notes issued which are backed by mortgage loans purchased by the authority under this subsection shall be offered for sale to the retirement plans covered by IC 5-10-1.7; and

(4) qualified members of a retirement plan shall be given preference with respect to the mortgage loans that in the aggregate do not exceed the amount invested by their retirement plan in bonds and notes issued by the authority that are backed by mortgage loans purchased by the authority under this subsection.

(d) As used in this section, "a qualified member of a retirement plan" means an active or retired member:

(1) of a retirement plan covered by IC 5-10-1.7 that has invested in bonds and notes issued by the authority that are backed by mortgage loans purchased by the authority under subsection (c); and

(2) who for a minimum of two (2) years preceding the member's application for a mortgage loan has:

(A) been a full-time state employee, teacher, judge, police officer, or firefighter;

(B) been a full-time employee of a political subdivision participating in the public employees' retirement fund;

(C) been receiving retirement benefits from the retirement plan; or

(D) a combination of employment and receipt of retirement benefits equaling at least two (2) years.

(e) ~~*Beginning with the 1991 program year,*~~ The authority, when

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directed by the governor, shall administer

~~*(1) the rental rehabilitation program established by the Housing Assistance Act of 1937 (42 U.S.C. 1437o), and*~~

~~*(2) federal funds allocated to the rental rehabilitation program under the Housing Assistance Act of 1937 (42 U.S.C. 1437o).*~~

programs and funds under 42 U.S.C. 1437 et seq.

~~*(f) The authority may contract with the division of family resources and the department of commerce so that the authority may administer the program and funds described under subsection (e) for program years before 1991.*~~

~~*(g)*~~ *(f)* ~~*Beginning May 15, 2005,*~~ The authority shall identify, promote, assist, and fund home ownership education programs conducted throughout Indiana by nonprofit counseling agencies certified by the authority using funds appropriated under section 27 of this chapter. The attorney general and the entities listed in IC 4-6-12-4(a)(1) through IC 4-6-12-4(a)(10) shall cooperate with the authority in implementing this subsection.

SECTION 21. IC 6-1.1-12-0.7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 0.7. Any individual who is sixty-five (65) years of age, **is** blind, or ~~disabled~~ **has a disability** (within the meaning of section 11 of this chapter) may appoint an individual eighteen (18) years of age or older to act on ~~his~~ **the individual's** behalf for purposes of filing property tax deduction statements for any deductions provided by this chapter. If a statement is filed by an appointee, the appointee's name, address, and telephone number must be included in the statement.

SECTION 22. IC 6-1.1-12-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11. (a) Except as provided in section 40.5 of this chapter, an individual may have the sum of twelve thousand four hundred eighty dollars ($12,480) deducted from the assessed value of real property, mobile home not assessed as real property, or manufactured home not assessed as real property that the individual owns, or that the individual is buying under a contract that provides that the individual is to pay property taxes on the real property, mobile home, or manufactured home, if the contract or a memorandum of the contract is recorded in the county recorder's office, and if:

(1) the individual is blind or the individual ~~is a disabled person,~~ **has a disability;**

(2) the real property, mobile home, or manufactured home is principally used and occupied by the individual as the individual's residence; and

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(3) the individual's taxable gross income for the calendar year preceding the year in which the deduction is claimed did not exceed seventeen thousand dollars ($17,000).

(b) For purposes of this section, taxable gross income does not include income which is not taxed under the federal income tax laws.

(c) For purposes of this section, "blind" has the same meaning as the definition contained in IC 12-7-2-21(1).

(d) For purposes of this section, ~~"disabled person"~~ **"individual with a disability"** means a person unable to engage in any substantial gainful activity by reason of a medically determinable physical or mental impairment which:

(1) can be expected to result in death; or

(2) has lasted or can be expected to last for a continuous period of not less than twelve (12) months.

(e) ~~Disabled persons~~ **An individual with a disability** filing ~~claims~~ **a claim** under this section shall submit proof of disability in such form and manner as the department shall by rule prescribe. Proof that a claimant is eligible to receive disability benefits under the federal Social Security Act (42 U.S.C. 301 et seq.) shall constitute proof of disability for purposes of this section.

(f) ~~A disabled person~~ **An individual with a disability** not covered under the federal Social Security Act shall be examined by a physician and the individual's status as ~~a disabled person~~ **an individual with a disability** determined by using the same standards as used by the Social Security Administration. The costs of this examination shall be borne by the claimant.

(g) An individual who has sold real property, a mobile home not assessed as real property, or a manufactured home not assessed as real property to another person under a contract that provides that the contract buyer is to pay the property taxes on the real property, mobile home, or manufactured home may not claim the deduction provided under this section against that real property, mobile home, or manufactured home.

SECTION 23. IC 6-1.1-12-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 13. (a) Except as provided in section 40.5 of this chapter, an individual may have twenty-four thousand nine hundred sixty dollars ($24,960) deducted from the assessed value of the taxable tangible property that the individual owns, or real property, a mobile home not assessed as real property, or a manufactured home not assessed as real property that the individual is buying under a contract that provides that the individual is to pay property taxes on the real property, mobile home, or

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manufactured home, if the contract or a memorandum of the contract is recorded in the county recorder's office and if:

(1) the individual served in the military or naval forces of the United States during any of its wars;

(2) the individual received an honorable discharge;

(3) the individual ~~is disabled~~ **has a disability** with a service connected disability of ten percent (10%) or more; and

(4) the individual's disability is evidenced by:

(A) a pension certificate, an award of compensation, or a disability compensation check issued by the United States Department of Veterans Affairs; or

(B) a certificate of eligibility issued to the individual by the Indiana department of veterans' affairs after the Indiana department of veterans' affairs has determined that the individual's disability qualifies the individual to receive a deduction under this section.

(b) The surviving spouse of an individual may receive the deduction provided by this section if the individual would qualify for the deduction if the individual were alive.

(c) One who receives the deduction provided by this section may not receive the deduction provided by section 16 of this chapter. However, the individual may receive any other property tax deduction which the individual is entitled to by law.

(d) An individual who has sold real property, a mobile home not assessed as real property, or a manufactured home not assessed as real property to another person under a contract that provides that the contract buyer is to pay the property taxes on the real property, mobile home, or manufactured home may not claim the deduction provided under this section against that real property, mobile home, or manufactured home.

SECTION 24. IC 6-1.1-12-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 14. (a) Except as provided in subsection (c) and except as provided in section 40.5 of this chapter, an individual may have the sum of twelve thousand four hundred eighty dollars ($12,480) deducted from the assessed value of the tangible property that the individual owns (or the real property, mobile home not assessed as real property, or manufactured home not assessed as real property that the individual is buying under a contract that provides that the individual is to pay property taxes on the real property, mobile home, or manufactured home if the contract or a memorandum of the contract is recorded in the county recorder's office) if:

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(1) the individual served in the military or naval forces of the United States for at least ninety (90) days;
(2) the individual received an honorable discharge;
(3) the individual either:
(A) ~~is totally disabled,~~ **has a total disability;** or
(B) is at least sixty-two (62) years old and has a disability of at least ten percent (10%); and
(4) the individual's disability is evidenced by:
(A) a pension certificate or an award of compensation issued by the United States Department of Veterans Affairs; or
(B) a certificate of eligibility issued to the individual by the Indiana department of veterans' affairs after the Indiana department of veterans' affairs has determined that the individual's disability qualifies the individual to receive a deduction under this section.

(b) Except as provided in subsection (c), the surviving spouse of an individual may receive the deduction provided by this section if the individual would qualify for the deduction if the individual were alive.

(c) No one is entitled to the deduction provided by this section if the assessed value of the individual's tangible property, as shown by the tax duplicate, exceeds one hundred thirteen thousand dollars ($113,000).

(d) An individual who has sold real property, a mobile home not assessed as real property, or a manufactured home not assessed as real property to another person under a contract that provides that the contract buyer is to pay the property taxes on the real property, mobile home, or manufactured home may not claim the deduction provided under this section against that real property, mobile home, or manufactured home.

SECTION 25. IC 6-1.1-12.1-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) An applicant must provide a statement of benefits to the designating body. If the designating body requires information from the applicant for economic revitalization area status for use in making its decision about whether to designate an economic revitalization area, the applicant shall provide the completed statement of benefits form to the designating body before the hearing required by section 2.5(c) of this chapter. Otherwise, the statement of benefits form must be submitted to the designating body before the initiation of the redevelopment or rehabilitation for which the person desires to claim a deduction under this chapter. The department of local government finance shall prescribe a form for the statement of benefits. The statement of benefits must include the following information:

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(1) A description of the proposed redevelopment or rehabilitation.

(2) An estimate of the number of individuals who will be employed or whose employment will be retained by the person as a result of the redevelopment or rehabilitation and an estimate of the annual salaries of these individuals.

(3) An estimate of the value of the redevelopment or rehabilitation.

With the approval of the designating body, the statement of benefits may be incorporated in a designation application. Notwithstanding any other law, a statement of benefits is a public record that may be inspected and copied under IC 5-14-3-3.

(b) The designating body must review the statement of benefits required under subsection (a). The designating body shall determine whether an area should be designated an economic revitalization area or whether a deduction should be allowed, based on (and after it has made) the following findings:

(1) Whether the estimate of the value of the redevelopment or rehabilitation is reasonable for projects of that nature.

(2) Whether the estimate of the number of individuals who will be employed or whose employment will be retained can be reasonably expected to result from the proposed described redevelopment or rehabilitation.

(3) Whether the estimate of the annual salaries of those individuals who will be employed or whose employment will be retained can be reasonably expected to result from the proposed described redevelopment or rehabilitation.

(4) Whether any other benefits about which information was requested are benefits that can be reasonably expected to result from the proposed described redevelopment or rehabilitation.

(5) Whether the totality of benefits is sufficient to justify the deduction.

A designating body may not designate an area an economic revitalization area or approve a deduction unless the findings required by this subsection are made in the affirmative.

(c) Except as provided in subsections (a) through (b), the owner of property which is located in an economic revitalization area is entitled to a deduction from the assessed value of the property. If the area is a residentially distressed area, the period is not more than five (5) years. For all other economic revitalization areas designated before July 1, 2000, the period is three (3), six (6), or ten (10) years. For all economic revitalization areas designated after June 30, 2000, the period is the number of years determined under subsection (d). The owner is entitled

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to a deduction if:

(1) the property has been rehabilitated; or

(2) the property is located on real estate which has been redeveloped.

The owner is entitled to the deduction for the first year, and any successive year or years, in which an increase in assessed value resulting from the rehabilitation or redevelopment occurs and for the following years determined under subsection (d). However, property owners who had an area designated an urban development area pursuant to an application filed prior to January 1, 1979, are only entitled to a deduction for a five (5) year period. In addition, property owners who are entitled to a deduction under this chapter pursuant to an application filed after December 31, 1978, and before January 1, 1986, are entitled to a deduction for a ten (10) year period.

(d) For an area designated as an economic revitalization area after June 30, 2000, that is not a residentially distressed area, the designating body shall determine the number of years for which the property owner is entitled to a deduction. However, the deduction may not be allowed for more than ten (10) years. This determination shall be made:

(1) as part of the resolution adopted under section 2.5 of this chapter; or

(2) by resolution adopted within sixty (60) days after receiving a copy of a property owner's certified deduction application from the county auditor. A certified copy of the resolution shall be sent to the county auditor who shall make the deduction as provided in section 5 of this chapter.

A determination about the number of years the deduction is allowed that is made under subdivision (1) is final and may not be changed by following the procedure under subdivision (2).

(e) Except for deductions related to redevelopment or rehabilitation of real property in a county containing a consolidated city or a deduction related to redevelopment or rehabilitation of real property initiated before December 31, 1987, in areas designated as economic revitalization areas before that date, a deduction for the redevelopment or rehabilitation of real property may not be approved for the following facilities:

(1) Private or commercial golf course.

(2) Country club.

(3) Massage parlor.

(4) Tennis club.

(5) Skating facility (including roller skating, skateboarding, or ice skating).

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(6) Racquet sport facility (including any handball or racquetball court).
(7) Hot tub facility.
(8) Suntan facility.
(9) Racetrack.
(10) Any facility the primary purpose of which is:
(A) retail food and beverage service;
(B) automobile sales or service; or
(C) other retail;
unless the facility is located in an economic development target area established under section 7 of this chapter.
(11) Residential, unless:
(A) the facility is a multifamily facility that contains at least twenty percent (20%) of the units available for use by low and moderate income individuals;
(B) the facility is located in an economic development target area established under section 7 of this chapter; or
(C) the area is designated as a residentially distressed area.
(12) A package liquor store that holds a liquor dealer's permit under IC 7.1-3-10 or any other entity that is required to operate under a license issued under IC 7.1. This subdivision does not apply to an applicant that:
(A) was eligible for tax abatement under this chapter before July 1, 1995;
(B) is described in IC 7.1-5-7-11; or
(C) operates a facility under:
(i) a beer wholesaler's permit under IC 7.1-3-3;
(ii) a liquor wholesaler's permit under IC 7.1-3-8; or
(iii) a wine wholesaler's permit under IC 7.1-3-13;
for which the applicant claims a deduction under this chapter.

(f) This subsection applies only to a county having a population of more than two hundred thousand (200,000) but less than three hundred thousand (300,000). Notwithstanding subsection (e)(11), in a county subject to this subsection a designating body may, before September 1, 2000, approve a deduction under this chapter for the redevelopment or rehabilitation of real property consisting of residential facilities that are located in unincorporated areas of the county if the designating body makes a finding that the facilities are needed to serve any combination of the following:
(1) Elderly persons who are predominately low-income or moderate-income persons.
(2) ~~Disabled~~ Persons **with a disability.**

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A designating body may adopt an ordinance approving a deduction under this subsection only one (1) time. This subsection expires January 1, 2011.

SECTION 26. IC 6-3-2-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. (a) An individual who:

(1) retired on disability before the end of the taxable year; and

(2) ~~was permanently and totally disabled,~~ **had a permanent and total disability,** as determined under subsection (c), at the time of retirement;

is entitled to a deduction from the individual's adjusted gross income for that taxable year in the amount determined under subsection (b).

(b) The deduction provided by subsection (a) is the amount determined using the following STEPS:

STEP ONE: Determine the amount received by the individual during the taxable year through an accident and health plan for personal injuries or sickness to the extent that:

(A) these amounts are attributable to contributions by the individual's employer that were not includable in the individual's gross income or are paid by the employer; and

(B) these amounts constitute wages or payments in lieu of wages for a period during which the employee is absent from work because of permanent and total disability.

STEP TWO: Determine for each week of the taxable year the amount by which each weekly payment referred to in STEP ONE exceeds one hundred dollars ($100), then add these amounts.

STEP THREE: Determine the amount by which the individual's federal adjusted gross income for the taxable year, as defined by Section 62 of the Internal Revenue Code, exceeds fifteen thousand dollars ($15,000).

STEP FOUR: Subtract from the amount determined in STEP ONE the amount determined in STEP TWO and the amount determined in STEP THREE.

(c) For purposes of this section, an individual ~~is permanently and totally disabled~~ **has a permanent and total disability** if the individual is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment that can be expected to result in death or that has lasted or can be expected to last for a continuous period of not less than twelve (12) months. An individual may not be considered to ~~be permanently and totally disabled~~ **have a permanent and total disability** unless ~~he~~ **the individual** furnishes proof of the existence of the disability as the department of revenue may require.

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SECTION 27. IC 6-3.5-1.1-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. (a) If for a particular taxable year a county taxpayer is, or a county taxpayer and ~~his~~ **the taxpayer's** spouse who file a joint return are, allowed a credit for the elderly or ~~the totally disabled~~ **individuals with a total disability** under Section 22 of the Internal Revenue Code, the county taxpayer is, or the county taxpayer and ~~his~~ **the taxpayer's** spouse are, entitled to a credit against ~~his~~ **the taxpayer's** or ~~their~~ **the taxpayer's and the taxpayer's spouse's** county adjusted gross income tax liability for that same taxable year. The amount of the credit equals the lesser of:

(1) the product of:

(A) ~~his~~ **the taxpayer's** or ~~their~~ **the taxpayer's and the taxpayer's spouse's** credit for the elderly or ~~the totally disabled~~ **individuals with a total disability** for that same taxable year; multiplied by

(B) a fraction, the numerator of which is the county adjusted gross income tax rate imposed against the county taxpayer, or the county taxpayer and ~~his~~ **the taxpayer's** spouse, and the denominator of which is fifteen hundredths (0.15); or

(2) the amount of county adjusted gross income tax imposed on the county taxpayer, or the county taxpayer and ~~his~~ **the taxpayer's** spouse.

(b) If a county taxpayer and ~~his~~ **the taxpayer's** spouse file a joint return and are subject to different county adjusted gross income tax rates for the same taxable year, they shall compute the credit under this section by using the formula provided by subsection (a), except that they shall use the average of the two (2) county adjusted gross income tax rates imposed against them as the numerator referred to in ~~subsections~~ **subsection** (a)(1)(B).

SECTION 28. IC 6-3.5-6-24 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 24. (a) If for a particular taxable year a county taxpayer is, or a county taxpayer and the taxpayer's spouse who file a joint return are, allowed a credit for the elderly or ~~the totally disabled~~ **individuals with a total disability** under Section 22 of the Internal Revenue Code, the county taxpayer is, or the county taxpayer and the taxpayer's spouse are, entitled to a credit against the county option income tax liability for that same taxable year. The amount of the credit equals the lesser of:

(1) the product of:

(A) the credit for the elderly or ~~the totally disabled~~ **individuals with a total disability** for that same taxable year; multiplied

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(B) a fraction, the numerator of which is the county option income tax rate imposed against the county taxpayer, or the county taxpayer and the taxpayer's spouse, and the denominator of which is fifteen-hundredths (0.15); or

(2) the amount of county option income tax imposed on the county taxpayer, or the county taxpayer and the taxpayer's spouse.

(b) If a county taxpayer and the taxpayer's spouse file a joint return and are subject to different county option income tax rates for the same taxable year, they shall compute the credit under this section by using the formula provided by subsection (a), except that they shall use the average of the two (2) county option income tax rates imposed against them as the numerator referred to in subsection (a)(1)(B).

SECTION 29. IC 6-3.5-7-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. (a) If for a taxable year a county taxpayer is (or a county taxpayer and a county taxpayer's spouse who file a joint return are) allowed a credit for the elderly or ~~the totally disabled~~ **individuals with a total disability** under Section 22 of the Internal Revenue Code, the county taxpayer is (or the county taxpayer and the county taxpayer's spouse are) entitled to a credit against the county taxpayer's (or the county taxpayer's and the county taxpayer's spouse's) county economic development income tax liability for that same taxable year. The amount of the credit equals the lesser of:

(1) the product of:

(A) the county taxpayer's (or the county taxpayer's and the county taxpayer's spouse's) credit for the elderly or ~~the totally disabled~~ **individuals with a total disability** for that same taxable year; ~~multipled~~ **multiplied** by

(B) a fraction. The numerator of the fraction is the county economic development income tax rate imposed against the county taxpayer (or against the county taxpayer and the county taxpayer's spouse). The denominator of the fraction is fifteen-hundredths (0.15); or

(2) the amount of county economic development income tax imposed on the county taxpayer (or the county taxpayer and the county taxpayer's spouse).

(b) If a county taxpayer and the county taxpayer's spouse file a joint return and are subject to different county economic development income tax rates for the same taxable year, they shall compute the credit under this section by using the formula provided by subsection (a), except that they shall use the average of the two (2) county

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economic development income tax rates imposed against them as the numerator referred to in subsection (a)(1)(B).

SECTION 30. IC 6-3.5-8-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 17. (a) If, for a particular taxable year, an individual taxpayer is allowed, or a municipal taxpayer and the municipal taxpayer's spouse who file a joint return are allowed, a credit for the elderly or ~~the totally disabled~~ **individuals with a total disability** under Section 22 of the Internal Revenue Code (as defined in IC 6-3-1-11), the municipal taxpayer is entitled or the municipal taxpayer and the municipal taxpayer's spouse are entitled to a credit against their municipal option income tax liability for that same taxable year. The amount of the credit equals the lesser of the following:

(1) The product of:

(A) the credit for the elderly or ~~the totally disabled~~ **individuals with a total disability** for the same taxable year; multiplied by

(B) a fraction. The numerator is the municipal option income tax rate imposed against the municipal taxpayer or the municipal taxpayer and the municipal taxpayer's spouse. The denominator is fifteen-hundredths (0.15).

(2) The amount of municipal option income tax imposed on the municipal taxpayer or the municipal taxpayer and the municipal taxpayer's spouse.

(b) If a municipal taxpayer and the municipal taxpayer's spouse file a joint return and are subject to different municipal option income tax rates for the same taxable year, they shall compute the credit under this section by using the formula provided in subsection (a), except that they shall use the average of the two (2) tax rates imposed against them as the numerator referred to in subsection (a)(1)(B).

SECTION 31. IC 8-1-2.8-3, AS AMENDED BY P.L.27-2006, SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) As used in this chapter, "dual party relay services" means telecommunications transmission services that provide the ability for a person who has a hearing impairment or speech impairment to engage in communication with a hearing person in a manner that is functionally equivalent to the ability of an individual who does not have a hearing impairment or speech impairment to communicate using voice communication services.

(b) The term includes services that enable two-way communication between a person who uses a telecommunications device for ~~the~~ **individuals who are** deaf or other nonvoice terminal and a person who does not use such a device.

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SECTION 32. IC 8-4-1-23 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 23. If any corporation shall, for its purposes aforesaid, require any land belonging to the state or to any county or town, the general assembly and the county and town officers respectively having charge of such lands may grant such lands to such corporation upon such terms as shall be agreed upon; and if they shall not so agree, the same may be taken by the corporation in the same manner as provided in other cases. No railroad shall be located upon or across the grounds of the state occupied by the institutions ~~of the insane, blind, or deaf and dumb.~~ **for individuals who are:**

(1) insane;

(2) blind; or

(3) deaf and without speech.

SECTION 33. IC 8-9-2-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. In case of disability of a member of a crew between terminals, the carrier shall have the right to operate the locomotive or train with a less number of employees than is provided in this chapter until such locomotive or train arrives at the next terminal, or other intermediate place on the road, where employees of the same class as the ~~disabled~~ employee **with the disability** are available, when such carrier shall fill the vacancy on such crew. This chapter shall not apply to relief or wrecking trains where sufficient employees are not available.

SECTION 34. IC 8-9.5-8-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 17. The authority shall study and implement programs to assist in the transportation of military veterans or ~~disabled persons~~ **individuals with a disability** (as defined in IC 6-1.1-12-11) who travel on a toll road to or from a hospital for treatment. However, a program may not be inconsistent with the trust indenture securing the bonds of the toll road.

SECTION 35. IC 10-12-2-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) The department may establish, operate, and make necessary contributions to a disability reserve account for the payment of disability expense reimbursements and disability pensions to ~~disabled employee~~ beneficiaries **of an employee with a disability.** The department also may do the following:

(1) Establish, under the terms of a supplementary trust agreement, disability expense reimbursements and disability pensions to be paid to employee beneficiaries who incur a disability in the line of duty.

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(2) Establish, under the terms of a supplementary trust agreement, disability expense reimbursements and disability pensions to be paid to employee beneficiaries who incur a disability not in the line of duty.

(3) Seek rulings from the Internal Revenue Service as to the federal tax treatment for the line of duty disability benefits authorized by this section.

Except as provided in subsection (d), a monthly disability pension may not exceed the maximum basic pension amount. However, in the case of disability incurred in the line of duty, an employee beneficiary may receive not more than forty dollars ($40) per month for each dependent parent and dependent child less than eighteen (18) years of age, in addition to the monthly disability pension payment under this chapter. Time in disability pension status is considered qualifying active service for purposes of calculating a retirement pension.

(b) This section shall be administered in a manner that is consistent with the Americans with Disabilities Act (42 U.S.C. 12101, et seq.) and the regulations and amendments related to that act, to the extent required by that act.

(c) A disability payment made under this chapter is worker's compensation instead of a payment under IC 22-3-2 through IC 22-3-7.

(d) A regular, paid police employee of the state police department who ~~is permanently and totally disabled by~~ **has a permanent and total disability from** a catastrophic personal injury that:

(1) is sustained in the line of duty after January 1, 2001; and

(2) permanently prevents the employee from performing any gainful work;

shall receive a disability pension equal to the employee's regular salary at the commencement of the disability. The disability pension provided under this subsection is provided instead of the regular monthly disability pension. The disability pension provided under this subsection must be increased at a rate equal to any salary increases the employee would have received if the employee remained in active service.

SECTION 36. IC 10-12-2-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11. The child or spouse of an employee beneficiary who ~~is permanently and totally disabled by~~ **has a permanent and total disability from** a catastrophic personal injury that was sustained in the line of duty and permanently prevents the employee beneficiary from performing any gainful work may not be required to pay tuition or mandatory fees at any state supported college, university, or technical school if:

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(1) the child is less than twenty-three (23) years of age and is a full-time student pursuing a prescribed course of study; or

(2) the spouse is pursuing a prescribed course of study toward an undergraduate degree.

SECTION 37. IC 10-17-9-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. (a) The following persons who are legal residents of Indiana for at least three (3) years immediately preceding application for admission and who ~~are disabled~~ **have a disability** or **are** destitute are eligible for admission to the home:

(1) An honorably discharged member of the armed forces who has served with the United States in any of its wars.

(2) An honorably discharged member of the armed forces who has served in an authorized campaign of the United States and who has a service connected disability, as evidenced by a pension certificate or the award of compensation.

(3) The spouse of an honorably discharged member of the armed forces described in subdivision (1) or (2).

(4) The surviving spouse of an honorably discharged member of the armed forces described in subdivision (1) or (2).

(b) The administrative head of the administrative unit for special institutions of the state department of health or its successor shall adopt rules concerning admission to the home.

(c) In adopting rules governing the admission, maintenance, and discharge of members of the veterans' home, the administrative head of the administrative unit for special institutions of the state department of health or its successor may establish a fund called the veterans' home comfort and welfare fund. The administrative head shall deposit all money collected from the members for the cost of their care and maintenance in the fund. The administrative head shall expend this money in any manner that adds to the comfort and welfare of the members of the institutions.

(d) A part of the veterans' home comfort and welfare fund may be withdrawn and deposited in a special fund called the veterans' home building fund. The veterans' home building fund shall be used for the construction, maintenance, remodeling, or repair of buildings of the Indiana Veterans' Home.

(e) Preference under this section may be given to a person who served in an Indiana military organization. Except in cases where the surviving spouse of a veteran marries another veteran, the benefits of this chapter extend only to a surviving spouse and the spouse of a veteran if the contract of marriage was entered into more than five (5)

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years before the date of death of the veteran. Except as otherwise provided by law, upon the death of a person in the home, money paid to the person or due to the person from a bank, a trust company, a corporation, or an individual becomes an asset of the person's estate and shall be distributed in the manner prescribed by the probate law of the state.

SECTION 38. IC 11-8-4-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. As used in this compact, unless the context clearly requires otherwise:

"State" means a state of the United States; the United States of America; a territory or possession of the United States; the District of Columbia; or the Commonwealth of Puerto Rico.

"Sending state" means a state party to this compact in which conviction or court commitment was had.

"Receiving state" means a state party to this compact to which an inmate is sent for confinement other than a state in which conviction or court commitment was had.

"Inmate" means a male or female offender who is committed, under sentence to or confined in a penal or correctional institution.

"Institution" means a penal or correctional facility, including but not limited to, a facility for ~~the mentally ill~~ **individuals with a mental illness** in which inmates may lawfully be confined.

SECTION 39. IC 11-10-4-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) A committed offender may be involuntarily transferred to the division of mental health and addiction or to a mental health facility only if:

(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~~ **the psychiatrist's** opinion, the offender ~~is mentally ill~~ **has a mental illness** and **is** in need of care and treatment by the division of mental health and addiction 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 mental health and addiction; 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

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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~~ **the offender's** 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 mental health and addiction 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 mental health and addiction or a mental health facility is necessary to control a mentally ill offender who is either gravely disabled or dangerous, that offender may be involuntarily transferred, subject to the approval of the director of the division of mental health and addiction, before holding the hearing described in subsection (a)(3). However, this subsection does not deprive the offender of ~~his~~ **the offender's** right to a hearing.

(c) The official in charge of the division of mental health and addiction 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~~ **the offender's** mental condition and the need for continued care and treatment in the division of mental health and addiction or facility. If the report states that the offender is still in need of care and treatment in the division of mental health and addiction or a mental health facility, the division of mental health and addiction or facility shall, upon request of the offender or a

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representative in ~~his~~ **the offender's** 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 mental health and addiction 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 mental health and addiction 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 mental health and addiction or facility, the division of mental health and addiction 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 40. IC 11-10-4-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) An offender who believes the offender to ~~be mentally ill~~ **have a mental illness** and **to be** in need of care and treatment in the division of mental health and addiction 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~~ **has a mental illness** and **is** in need of care and treatment in the division of mental health and addiction or a mental health facility, the department of correction shall transfer the offender to the division of mental health and addiction, subject to the approval of the director of the division of mental health and addiction, or to a mental health facility. If the department of correction intends to transfer an offender to the division of mental health and addiction, the department of correction shall transmit a copy of the psychiatrist's report to the division of mental health and addiction.

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

SECTION 41. IC 12-7-2-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 19. **(a)** "Autism", for purposes of IC 12-11-8, has the meaning set forth in IC 12-11-8-1.

(b) "Autism", for purposes of IC 12-11-1.1-6 and IC 12-28-4-13, refers to the characteristics of a neurological disorder that is described in the Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition, Washington, American Psychiatric Association, 1994, pages 70 and 71.

SECTION 42. IC 12-7-2-67 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 67. "Discharge",

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for purposes of IC 12-26, means the final and complete release of ~~a mentally ill~~ **an** individual **with a mental illness** from the care, treatment, training, or detention at a facility to which the individual was committed or entered voluntarily **for mental illness.**

SECTION 43. IC 12-7-2-82 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 82. "Facility" means the following:

(1) For purposes of IC 12-17-12, the meaning set forth in IC 12-17-12-3.

(2) For purposes of IC 12-17-13, the meaning set forth in IC 12-17-13-2.

(3) For purposes of IC 12-26, a psychiatric hospital, a community mental health center, another institution, a program, a managed care provider, or a child caring institution:

(A) where ~~a mentally ill~~ **an** individual **with a mental illness** can receive rehabilitative treatment or habilitation and care in the least restrictive environment suitable for the necessary care, treatment, and protection of the individual and others; and

(B) that has adequate space and treatment staff appropriate to the needs of the individual as determined by the superintendent of the facility.

The term includes all services, programs, and centers of the facility, wherever located.

(4) For purposes of IC 12-15-32, the meaning set forth in IC 12-15-32-1.

SECTION 44. IC 12-7-2-117.3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 117.3. (a) "Individual with a disability", for purposes of IC 12-12-8, has the meaning set forth in IC 12-12-8-3.4.

(b) "Individual with a disability", for purposes of IC 12-10-10, has the meaning set forth in IC 12-10-10-3.

~~(b)~~ **(c)** "Individual with a significant disability", for purposes of IC 12-12-8, has the meaning set forth in IC 12-12-8-3.6.

SECTION 45. IC 12-7-2-117.6 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 117.6. "Individual with a mental illness", for purposes of IC 12-21-2, IC 12-22-1, and IC 12-24-17, means an individual who:**

(1) has a psychiatric disorder that substantially impairs the individual's mental health; and

(2) requires care, treatment, training, or detention:

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(A) because of the psychiatric disorder; or

(B) for the welfare of the individual or others of the community in which the individual resides.

SECTION 46. IC 12-7-2-117.8 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 117.8. "Infants and toddlers with disabilities", for purposes of IC 12-12.7-2, has the meaning set forth in IC 12-12.7-2-4.**

SECTION 47. IC 12-7-2-136 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 136. "Patient" means the following:

(1) For purposes of IC 12-24-1-4, an individual who is admitted to a state institution for observation, diagnosis, or treatment.

(2) For purposes of IC 12-24-7, the meaning set forth in IC 12-24-7-1.

(3) For purposes of IC 12-24-6, IC 12-24-13, IC 12-24-14, and IC 12-24-15, ~~a mentally ill~~ **an** individual **with a mental illness,** an individual who appears to ~~be mentally ill,~~ **have a mental illness,** or ~~a mentally retarded~~ **an** individual **with mental retardation** who is:

(A) in or under the supervision and control of a state institution; or

(B) because of mental illness, under the supervision and control of a circuit, superior, or juvenile court.

(4) For purposes of IC 12-24-17, the meaning set forth in IC 12-24-17-2.

(5) For purposes of IC 12-27, an individual receiving mental health services or developmental training. The term includes a client of a service provider.

SECTION 48. IC 12-7-2-151 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: 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.~~ **have a mental illness.**

(3) A private psychiatric hospital licensed by the division of mental health and addiction.

SECTION 49. IC 12-7-2-165 IS AMENDED TO READ AS

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FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 165. "Residential facility", for purposes of IC 12-28-4 and IC 12-28-5, refers to a residential facility for ~~the developmentally disabled~~ **individuals with a developmental disability** or a residential facility for ~~the mentally ill.~~ **individuals with a mental illness.**

SECTION 50. IC 12-7-2-166 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 166. "Residential facility for ~~the developmentally disabled",~~ **individuals with a developmental disability",** for purposes of IC 12-28-4 and IC 12-28-5, means a facility that provides residential services for ~~developmentally disabled~~ individuals **with a developmental disability** in a program described in IC 12-11-1.1-1(e)(1) or IC 12-11-1.1-1(e)(2).

SECTION 51. IC 12-7-2-167 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 167. "Residential facility for ~~the mentally ill",~~ **individuals with a mental illness",** for purposes of IC 12-28-4 and IC 12-28-5, means a facility that provides residential services for ~~mentally ill~~ individuals **with a mental illness** in a program described in IC 12-22-2-3.

SECTION 52. IC 12-7-2-188.3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 188.3. "Supervised group living facility", for purposes of IC 12-28-4 and IC 12-28-5, refers to a supervised group living facility for ~~the developmentally disabled.~~ **individuals with a developmental disability.**

SECTION 53. IC 12-7-2-188.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 188.5. "Supervised group living facility for ~~the developmentally disabled",~~ **individuals with a developmental disability",** for purposes of IC 12-28-4 and IC 12-28-5, refers to a supervised group living facility for ~~developmentally disabled~~ individuals **with a developmental disability** in a program described in IC 12-11-1.1-1(e)(1).

SECTION 54. IC 12-7-2-188.7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 188.7. "Supervised group living facility for ~~the mentally ill",~~ **individuals with a mental illness",** for purposes of IC 12-21-2-3, refers to a supervised group living facility for ~~the mentally ill~~ **individuals with a mental illness** in a program described in IC 12-22-2-3(2).

SECTION 55. IC 12-8-1-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11. The office of the secretary is designated as the sole state agency responsible for administering programs concerning the vocational rehabilitation of ~~handicapped persons~~ **individuals with a disability** under 29 U.S.C. 701 et seq.

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SECTION 56. IC 12-8-6-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. The office and the division of mental health and addiction 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 **with a mental illness.**

(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 **with a mental illness** cannot be excluded from services on the basis of diagnosis unless these services are otherwise provided and reimbursed under the state plan.

(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.~~ **individuals with a mental illness.**

(8) That the division shall develop rate setting policies for medical assistance services for ~~the mentally ill.~~ **individuals with a mental illness.**

(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 57. IC 12-8-6-8, AS AMENDED BY P.L.141-2006, SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. The office and the division of disability and rehabilitative services shall develop a written memorandum of understanding that provides the following:

(1) Program responsibilities for the provision of care and treatment for ~~developmentally disabled~~ **individuals with a developmental disability** and long term care recipients.

(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

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and audits for ~~developmentally disabled~~ **developmental disability** and long term care 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., ~~developmentally disabled~~ individuals **with a developmental disability** and long term care recipients cannot be excluded from services on the basis of diagnosis unless these services are otherwise provided and reimbursed under the state plan.

(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 developmentally disabled~~ **individuals with a developmental disability** and long term care recipients.

(8) That the division shall develop rate setting policies for medical assistance services for ~~the developmentally disabled~~ **individuals with a developmental disability** and long term care recipients.

(9) That the office, with the assistance of the division, shall apply for waivers from the United States Department of Health and Human Services to fund community and home based long term care services as alternatives to institutionalization.

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

(11) Any additional provisions that enhance communication between the office and the division or facilitate more efficient or effective delivery of ~~developmentally disabled~~ **developmental disability** or long term care services.

SECTION 58. IC 12-9-2-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. (a) The director may act for the division in entering into contracts for the disbursal of money and the providing of service for approved community mental retardation and other developmental disability centers where constructed and operated or maintained by private nonprofit organizations, a local public agency, or any other state agency that the director determines to be best suited to advance programs for individuals with developmental disabilities.

(b) 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.

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

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(1) Specify the services to be provided and the client populations to whom services must be provided.

(2) Specify that the definition of developmental disability set forth in IC 12-7-2-61 must be used to determine the eligibility of an individual for reimbursement of the center by the division for the center's services for ~~developmentally disabled~~ individuals **with a developmental disability.** The division shall reimburse the centers at rates established by rule.

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

SECTION 59. IC 12-10-1-3, AS AMENDED BY P.L.141-2006, SECTION 39, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. The bureau shall administer the following programs:

(1) The federal Older Americans Act under IC 12-9.1-4-1.

(2) Area agencies on aging services under this article.

(3) Adult protective services under IC 12-10-3.

(4) Room and board assistance and assistance to residents in county homes under IC 12-10-6.

(5) Adult guardianship program under IC 12-10-7.

(6) Community and home options for the elderly and ~~disabled~~ **individuals with a disability** under IC 12-10-10.

(7) Nursing home preadmission screening under IC 12-10-12.

(8) Long term care advocacy under IC 12-10-13.

(9) Nutrition services and home delivered meals.

(10) Title III B supportive services.

(11) Title III D in-home services.

(12) Aging programs under the Social Services Block Grant.

(13) United States Department of Agriculture elderly feeding program.

(14) Title V senior employment.

(15) PASARR under older adult services.

SECTION 60. IC 12-10-6-1, AS AMENDED BY P.L.141-2006, SECTION 41, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) An individual who:

(1) is at least sixty-five (65) years of age, **is** blind, or ~~disabled,~~ **has a disability;** and

(2) is a resident of a county home;

is eligible to receive assistance payments from the state if the individual would be eligible for assistance under the federal Supplemental Security Income program except for the fact that the individual is residing in a county home.

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(b) The amount of nonmedical assistance to be paid on behalf of a resident in a county home must be based on the daily rate established by the division. The rate for facilities under this section and licensed under IC 16-28 may not exceed an upper rate limit established by a rule adopted by the division.

(c) The rate for facilities under this section but not licensed under IC 16-28 must be the lesser of:

(1) an upper rate limit established by a rule adopted by the division; or

(2) a reasonable and adequate rate to meet the costs, determined by generally accepted accounting principles, that are incurred by efficiently and economically operated facilities in order to provide care and services in conformity with quality and safety standards and applicable laws and rules.

(d) The recipient shall be paid or allowed to retain from the recipient's income a monthly personal allowance. The amount:

(1) is fifty-two dollars ($52);

(2) is exempt from income eligibility consideration by the division; and

(3) may be exclusively used by the recipient for personal needs.

(e) In addition to the amount that may be retained as a personal allowance under this section, an individual is 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 the month occurs. This amount is exempt from income eligibility consideration by the division. The amount retained shall be used by the individual to pay state or local income taxes owed.

(f) In addition to the amounts that may be retained under subsections (d) and (e), an eligible individual may retain a Holocaust victim's settlement payment. The payment is exempt from income eligibility consideration by the division.

(g) The personal allowance for one (1) month for an individual described in subsection (a) 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,

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and the tax prescribed by the federal Insurance Contribution Act (26 U.S.C. 3101 et seq.); plus

(C) transportation expenses for that month; plus

(D) any mandatory expenses required by the employer as a condition of employment.

(h) The division, in cooperation with the state department of health taking into account licensure requirements under IC 16-28, shall adopt rules under IC 4-22-2 governing the reimbursement to facilities under this section. The rules must be designed to determine the costs that must be incurred by efficiently and economically operated facilities to provide room, board, laundry, and other services, along with minimal administrative direction to individuals who receive residential care in the facilities under this section. A rule adopted under this subsection by:

(1) the division; or

(2) the state department of health;

must conform to the rules for residential care facilities that are licensed under IC 16-28.

(i) A rate established under this section may be appealed according to the procedures under IC 4-21.5.

(j) The division shall annually review each facility's rate using the following:

(1) Generally accepted accounting principles.

(2) The costs incurred by efficiently and economically operated facilities in order to provide care and services in conformity with quality and safety standards and applicable laws and rules.

SECTION 61. IC 12-10-6-2.1, AS AMENDED BY P.L.141-2006, SECTION 42, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2.1. (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 (g) and (i), 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~~ **with** mental retardation may not be

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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,~~ **has mental retardation,** 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 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 monthly personal allowance of fifty-two dollars ($52). 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

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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) In addition to the amounts that may be retained under subsections (d) and (e), an eligible individual may retain a Holocaust victim's settlement payment. The payment is exempt from income eligibility consideration by the division.

(g) 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).

(h) The personal allowance for one (1) month for an individual described in subsection (a) 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; plus

(D) any mandatory expenses required by the employer as a condition of employment.

(i) 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.

(j) The director of the division may contract with the division of mental health and addiction or the division of disability and rehabilitative services to purchase services for individuals ~~suffering from~~ **with a** mental illness or a developmental disability by providing money to supplement the appropriation for community residential care

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programs established under IC 12-22-2 or community residential programs established under IC 12-11-1.1-1.

(k) 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 62. IC 12-10-6-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) An individual who is determined ~~as disabled~~ under section ~~2(a)(2)~~ **2.1(a)(2)** of this chapter **to be incapable of residing in the individual's own home** 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~~ **an** individual **with a mental illness** 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 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 mental health and addiction 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~~ **with a** mental illness who reside under this chapter in a home or facility that provides residential care.

SECTION 63. IC 12-10-10-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. As used in this chapter, ~~"disabled"~~ **"individual with a disability"** refers to an

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individual with a severe chronic disability that is attributable to a mental or physical impairment or combination of mental and physical impairments that is likely to continue indefinitely.

SECTION 64. IC 12-10-10-4, AS AMENDED BY P.L.246-2005, SECTION 99, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) As used in this chapter, "eligible individual" means an individual who:

(1) is a resident of Indiana;

(2) is:

(A) at least sixty (60) years of age; or

~~(B) disabled;~~

(B) an individual with a disability;

(3) has assets that do not exceed five hundred thousand dollars ($500,000), as determined by the division; and

(4) qualifies under criteria developed by the board as having an impairment that places the individual at risk of losing the individual's independence, as described in subsection (b).

(b) For purposes of subsection (a), an individual is at risk of losing the individual's independence if the individual is unable to perform two (2) or more activities of daily living. The use by or on behalf of the individual of any of the following services or devices does not make the individual ineligible for services under this chapter:

(1) Skilled nursing assistance.

(2) Supervised community and home care services, including skilled nursing supervision.

(3) Adaptive medical equipment and devices.

(4) Adaptive nonmedical equipment and devices.

SECTION 65. IC 12-10-11-8, AS AMENDED BY P.L.137-2005, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. The board shall do the following:

(1) Establish long term goals of the state for the provision of a continuum of care for the elderly and ~~disabled~~ **individuals with a disability** based on the following:

(A) Individual independence, dignity, and privacy.

(B) Long term care services that are:

(i) integrated, accessible, and responsible; and

(ii) available in home and community settings.

(C) Individual choice in planning and managing long term care.

(D) Access to an array of long term care services:

(i) for an individual to receive care that is appropriate for the individual's needs; and

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(ii) to enable a case manager to have cost effective alternatives available in the construction of care plans and the delivery of services.

(E) Long term care services that include home care, community based services, assisted living, congregate care, adult foster care, and institutional care.

(F) Maintaining an individual's dignity and self-reliance to protect the fiscal interests of both taxpayers and the state.

(G) Long term care services that are fiscally sound.

(2) Review state policies on community and home care services.

(3) Recommend the adoption of rules under IC 4-22-2.

(4) Recommend legislative changes affecting community and home care services.

(5) Recommend the coordination of the board's activities with the activities of other boards and state agencies concerned with community and home care services.

(6) Evaluate cost effectiveness, quality, scope, and feasibility of a state administered system of community and home care services.

(7) Evaluate programs for financing services to those in need of a continuum of care.

(8) Evaluate state expenditures for community and home care services, taking into account efficiency, consumer choice, competition, and equal access to providers.

(9) Develop policies that support the participation of families and volunteers in meeting the long term care needs of individuals.

(10) Encourage the development of funding for a continuum of care from private resources, including insurance.

(11) Develop a cost of services basis and a program of cost reimbursement for those persons who can pay all or a part of the cost of the services rendered. The division shall use this cost of services basis and program of cost reimbursement in administering IC 12-10-10. The cost of services basis and program of cost reimbursement must include a client cost share formula that:

(A) imposes no charges for an eligible individual whose income does not exceed one hundred fifty percent (150%) of the federal income poverty level; and

(B) does not impose charges for the total cost of services provided to an individual under the community and home options to institutional care for the elderly and disabled program unless the eligible individual's income exceeds three

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hundred fifty percent (350%) of the federal income poverty level.

The calculation of income for an eligible individual must include the deduction of the individual's medical expenses and the medical expenses of the individual's spouse and dependent children who reside in the eligible individual's household.

(12) Establish long term goals for the provision of guardianship services for adults.

(13) Coordinate activities and programs with the activities of other boards and state agencies concerning the provision of guardianship services.

(14) Recommend statutory changes affecting the guardianship of indigent adults.

(15) Review a proposed rule concerning home and community based services as required under section 9 of this chapter.

SECTION 66. IC 12-10-12-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) Except as provided in sections 27 through 31 of this chapter, an individual who is admitted to a nursing facility must first have been screened and approved for placement under the nursing facility preadmission screening program described in this chapter.

(b) An individual who is identified by the screening team under section 16 of this chapter as ~~developmentally disabled~~ **an individual with a developmental disability** or **an individual who is** mentally ill (as defined in 42 U.S.C. 1396r(e)(7)) must be assessed to determine the appropriateness of nursing facility placement and the need for specialized services.

SECTION 67. IC 12-10-17.1-4, AS ADDED BY P.L.141-2006, SECTION 44, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. As used in this chapter, "basic services" means a function that could be performed by the individual in need of self-directed in-home care if the individual ~~were not physically disabled.~~ **did not have a physical disability.** The term includes the following:

(1) Assistance in getting in and out of beds, wheelchairs, and motor vehicles.

(2) Assistance with routine bodily functions, including:

(A) health related services (as defined in section 5 of this chapter);

(B) bathing and personal hygiene;

(C) dressing and grooming; and

(D) feeding, including preparation and cleanup.

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SECTION 68. IC 12-10-17.1-6, AS ADDED BY P.L.141-2006, SECTION 44, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. As used in this chapter, "individual in need of self-directed in-home care" means ~~a disabled~~ **an** individual **with a disability,** or person responsible for making health related decisions for the ~~disabled~~ individual **with a disability,** who:

(1) is approved to receive Medicaid waiver services under 42 U.S.C. 1396n(c), or is a participant in the community and home options to institutional care for the elderly and disabled program under IC 12-10-10;

(2) is in need of attendant care services because of impairment;

(3) requires assistance to complete functions of daily living, self-care, and mobility, including those functions included in attendant care services;

(4) chooses to self-direct a paid personal services attendant to perform attendant care services; and

(5) assumes the responsibility to initiate self-directed in-home care and exercise judgment regarding the manner in which those services are delivered, including the decision to employ, train, and dismiss a personal services attendant.

SECTION 69. IC 12-10-17.1-9, AS ADDED BY P.L.141-2006, SECTION 44, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. As used in this chapter, "self-directed in-home health care" means the process by which an individual, who is prevented by a disability from performing basic and ancillary services that the individual would perform if ~~not disabled,~~ **the individual did not have a disability,** chooses to direct and supervise a paid personal services attendant to perform those services in order for the individual to live in the individual's home and community rather than an institution.

SECTION 70. IC 12-11-1.1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) The bureau of developmental disabilities services is established within the division.

(b) The bureau shall plan, coordinate, and administer the provision of individualized, integrated community based services for ~~developmentally disabled~~ individuals **with a developmental disability** and their families, within the limits of available resources. The planning and delivery of services must be based on ~~the developmentally disabled individual's~~ future plans **of the individual with a developmental disability** rather than on traditional determinations of eligibility for discrete services, with an emphasis on the preferences of the ~~developmentally disabled~~ individual **with a**

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developmental disability and that individual's family.

(c) Services for ~~developmentally disabled~~ individuals **with a developmental disability** must be services that meet the following conditions:

(1) Are provided under public supervision.

(2) Are designed to meet the developmental needs of ~~developmentally disabled~~ individuals **with a developmental disability.**

(3) Meet all required state and federal standards.

(4) Are provided by qualified personnel.

(5) To the extent appropriate, are provided in home and community based settings in which individuals without disabilities participate.

(6) Are provided in conformity with a service plan developed under IC 12-11-2.1-2.

(d) The bureau shall approve entities to provide community based services and supports.

(e) The bureau shall approve and monitor community based residential, habilitation, and vocational service providers that provide alternatives to placement of ~~developmentally disabled~~ individuals **with a developmental disability** in state institutions and health facilities licensed under IC 16-28 for ~~developmentally disabled~~ individuals **with a developmental disability.** The services must simulate, to the extent feasible, patterns and conditions of everyday life that are as close as possible to normal. The community based service categories include the following:

(1) Supervised group living programs, which serve at least four (4) individuals and not more than eight (8) individuals, are funded by Medicaid, and are licensed by the community residential facilities council.

(2) Supported living service arrangements to meet the unique needs of individuals in integrated settings. Supported living service arrangements providing residential services may not serve more than four (4) unrelated individuals in any one (1) setting. However, the head of the bureau shall waive this limitation for a setting providing residential services to more than four (4) unrelated individuals in any one (1) setting if the setting was in existence on June 30, 1999.

(f) To the extent that services described in subsection (e) are available and meet the individual's needs, an individual is entitled to receive services in the least restrictive environment possible.

(g) Community based services under subsection (e)(1) or (e)(2)

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must consider the needs of and provide choices and options for:

(1) ~~developmentally disabled~~ individuals **with a developmental disability;** and

(2) families of ~~developmentally disabled~~ individuals **with a developmental disability.**

(h) The bureau shall administer a system of service coordination to carry out this chapter.

SECTION 71. IC 12-11-1.1-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) Except as specified by the terms of the Medicaid program:

(1) an individual who receives services under this chapter; and

(2) the parents of the individual, if the individual is less than eighteen (18) years of age;

are liable for the cost of services and supports.

(b) The bureau shall make every effort to assure that individualized service plans developed for ~~developmentally disabled~~ individuals **with a developmental disability** maximize the amount of Medicaid funding available to meet the needs of the individual.

(c) The bureau may provide reimbursement for services identified in an individual's individual service plan that are not eligible for Medicaid reimbursement and for which the individual does not have the resources to pay.

SECTION 72. IC 12-11-1.1-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. ~~A developmentally disabled~~ **An** individual **with a developmental disability** who is eligible for Medicaid remains eligible for Medicaid if transferred to community based services described in section 1(e) of this chapter.

SECTION 73. IC 12-11-1.1-5, AS AMENDED BY P.L.145-2006, SECTION 70, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. The bureau may continue the approved placement of ~~a developmentally disabled~~ **an** individual **with a developmental disability** in a child caring institution licensed under IC 31-27, a county home regulated by IC 12-30-3, or a health facility licensed under IC 16-28 if:

(1) the individual was placed in the institution, home, or facility before July 1, 1985; and

(2) the placement continues to be appropriate for the individual, as determined by the bureau.

SECTION 74. IC 12-11-1.1-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. An individual who has been diagnosed to ~~be autistic~~ **have autism** may not be

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excluded from services for ~~developmentally disabled~~ individuals **with a developmental disability** because the individual has autism.

SECTION 75. IC 12-11-1.1-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. Subject to the availability of money, the division may operate community residential facilities for ~~developmentally disabled~~ individuals **with a developmental disability** who are hard to place, if private providers cannot be found to operate facilities for those individuals. Placement of individuals in these facilities is governed by IC 12-11-2.1.

SECTION 76. IC 12-11-2.1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) The bureau shall determine whether or not an individual ~~is a developmentally disabled individual.~~ **has a developmental disability.** For individuals for whom there is not enough current information available to make a determination of eligibility, the bureau shall use the results of a diagnostic assessment in determining whether an individual ~~is a developmentally disabled individual.~~ **has a developmental disability.** A diagnostic assessment must include the following:

(1) Diagnostic information concerning the individual's functioning level and medical and habilitation needs.

(2) All information necessary for the use of the office of Medicaid policy and planning, the Indiana health facilities council, and the division.

(3) The use of all appropriate assessments conducted under rules adopted under IC 16-28.

(b) An individual who is found not to ~~be a developmentally disabled individual~~ **have a developmental disability** may appeal the bureau's finding under IC 4-21.5.

(c) If an individual is determined to ~~be a developmentally disabled individual,~~ **have a developmental disability,** the office shall determine whether the individual meets the appropriate federal level of care requirements.

SECTION 77. IC 12-11-2.1-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. The bureau shall, within the limits of available resources, provide service coordination services to ~~developmentally disabled~~ individuals **with a developmental disability.** Service coordination services must include the development of an individual service plan.

SECTION 78. IC 12-11-2.1-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. All services provided to an individual must be provided under the ~~developmentally disabled individual's~~ individual service plan **of the individual with a**

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disability. To the extent that services described in IC 12-11-1.1-1(e) are available and meet the individual's needs, services provided to an individual shall be provided in the least restrictive environment possible.

SECTION 79. IC 12-11-2.1-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. The bureau shall serve as the placement authority for ~~developmentally disabled~~ individuals **with a developmental disability** under service plans developed under this chapter, including all placements in a state developmental center or an intermediate care facility.

SECTION 80. IC 12-11-2.1-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. When authorizing services for ~~a developmentally disabled~~ **an** individual **with a developmental disability** in a community based setting, the bureau shall give equal consideration based on need between:

(1) individuals who resided with a family member, relative, or guardian immediately before the community based residential placement; and

(2) individuals being placed from:

(A) a state developmental center;

(B) an intermediate care facility; or

(C) a nursing facility.

SECTION 81. IC 12-11-2.1-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. Before ~~a developmentally disabled~~ **an** individual **with a developmental disability** is:

(1) discharged from a state institution; or

(2) placed on outpatient status under IC 12-26-14 by a state institution;

the bureau shall develop a service plan for the individual under section 2 of this chapter.

SECTION 82. IC 12-11-2.1-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. If ~~a developmentally disabled~~ **an** individual **with a developmental disability** committed to a state developmental center is placed on outpatient status under IC 12-26-14, the bureau shall monitor the individual's compliance with the individual's service plan during the period that the individual is in outpatient status.

SECTION 83. IC 12-11-2.1-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11. (a) An individual who:

(1) is receiving services for ~~developmentally disabled~~ individuals

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with a developmental disability that are funded by Medicaid; and

(2) has been decertified by the office because the individual fails to meet appropriate federal level of care requirements;

must continue to receive the same services, unless an appropriate individual service plan has been developed outlining the services needed by the individual to live in the least restrictive environment.

(b) After available federal, local, and individual resources have been used, unencumbered state appropriations that are available, as determined by the budget director, must be used to implement plans developed under subsection (a).

SECTION 84. IC 12-11-6-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. The division is responsible for the following:

(1) Planning, research, and the development of developmental services directed toward the prevention and alleviation of developmental disabilities or toward the social, personal, physical, or economic habilitation or rehabilitation of an individual with such a disability.

(2) The coordination of the various governmental services, activities, and programs in Indiana relating to ~~developmentally disabled~~ individuals **with a developmental disability.**

(3) Administering the state aided services for ~~developmentally disabled~~ individuals **with a developmental disability.**

SECTION 85. IC 12-11-8-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: 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 mental health and addiction, the department of education, and the state department of health relative to the services provided to ~~autistic~~ individuals **with autism** 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.

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(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 **with autism** and their families.

(B) The need for additional or alternative services for ~~autistic~~ individuals **with autism** and their families.

(b) The institute for autism shall deliver to the general assembly in an electronic format under IC 5-14-6 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 86. IC 12-11-13-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. The ombudsman shall do the following:

(1) Promote effective coordination among the following:

(A) Programs that provide legal services for ~~the developmentally disabled.~~ **individuals with a developmental disability.**

(B) The division.

(C) Providers of waiver services to individuals with developmental disabilities.

(D) Providers of other necessary or appropriate services.

(2) Ensure that the identity of an individual described in section 1 of this chapter will not be disclosed without:

(A) the individual's written consent; or

(B) a court order.

SECTION 87. IC 12-12-1-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. The director shall organize the bureau in the manner necessary to carry out the bureau's duties. However, the bureau must include the following:

(1) The unit of services for the blind and visually impaired.

(2) The unit of vocational rehabilitation.

(3) The unit of services for ~~the~~ **individuals who are** deaf and **individuals who are** hard of hearing.

SECTION 88. IC 12-12-6-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. The rehabilitation technology program may include the following:

(1) The provision of comprehensive technical services to persons with physical disabilities, counselors, workshop staff, educators, and potential employers to facilitate successful rehabilitation of ~~the disabled.~~ **individuals with a disability.**

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(2) The collection and dissemination of information about physical devices and data detailing the effectiveness of physical devices in enhancing the functional ability of persons with physical disabilities.

(3) The establishment of a mechanism for training persons to more appropriately meet the rehabilitation technology needs of persons with physical disabilities.

SECTION 89. IC 12-12-7-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. The unit shall do the following:

(1) Refer ~~deaf~~ individuals **who are deaf** and individuals who are hard of hearing to the appropriate agencies to serve the individuals' needs.

(2) Coordinate state, local, and private efforts to serve ~~the~~ **individuals who are** deaf and **individuals who are** hard of hearing. ~~individuals.~~

SECTION 90. IC 12-14-15-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. Assistance shall be given to a needy ~~disabled~~ individual ~~(referred to as "disabled person" in this chapter)~~ **with a disability** who meets the following qualifications:

(1) Has a pending application on file with the federal Social Security Administration for assistance under Public Law 92-603, supplemental security income (SSI), or is receiving assistance. However, a person whose application for assistance under Public Law 92-603 has been denied but who meets all other requirements of this chapter is eligible for supplemental assistance.

(2) Has one (1) of the following:

(A) A physical or mental impairment, disease, or loss that is verifiable by a physician licensed under IC 25-22.5, that appears reasonably certain to result in death or to last for a continuous period of at least twelve (12) months without significant improvement, and that substantially impairs the individual's ability to perform labor or services or to engage in a useful occupation.

(B) A mental impairment, disease, or loss that is:

(i) diagnosed by a physician licensed under IC 25-22.5 or a health services provider in psychology licensed under IC 25-33-1; and

(ii) verifiable by a physician licensed under IC 25-22.5 or a psychologist licensed under IC 25-33;

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that appears reasonably certain to last for a continuous period of at least twelve (12) months without significant improvement, and that substantially impairs the individual's ability to perform labor or services or to engage in a useful occupation. Employment in a sheltered workshop or under an approved vocational rehabilitation plan is not considered a useful occupation for the purposes of this chapter. The determination of medical disability under this subdivision shall be made without reference to the individual's ability to pay for treatment.

(3) Does not have a parent, spouse, or other legally responsible relative able to support the individual.

(4) Is at least eighteen (18) years of age.

(5) Is residing and intends to remain in Indiana in a bona fide living arrangement.

(6) Has insufficient income or other resources to provide a reasonable subsistence according to the standards established by the division.

(7) Except as otherwise provided in this chapter, is not an inmate of or being maintained by a municipal, state, or national institution while receiving assistance.

(8) Has not, at any time within five (5) years immediately before the date of the filing of an application for assistance under this chapter, made an assignment or transfer of property for the purpose of making or that will make the individual eligible for assistance under this chapter, except as otherwise provided in this chapter.

SECTION 91. IC 12-14-17-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. This chapter applies to the following individuals:

(1) An individual who receives supplemental assistance to the aged.

(2) An individual who receives supplemental assistance to the blind.

(3) An individual who receives supplemental assistance for persons with disabilities.

(4) An **individual who has a disability, is** aged, **or is** blind ~~or disabled person~~ who, at the time of death, was certified to receive medical assistance under Medicaid.

SECTION 92. IC 12-14-17-2, AS AMENDED BY P.L.9-2006, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) This section applies upon the death of either of the following:

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(1) A recipient who is receiving supplemental assistance.

(2) An **individual who had a disability, was** aged, **or was** blind ~~or disabled person~~ who, at the time of death, was certified as eligible to receive medical assistance under Medicaid.

(b) Except as provided in subsection (c), the division shall pay six hundred dollars ($600) for the funeral director's expenses of the decedent if the following conditions exist:

(1) The estate of the deceased is insufficient to pay the funeral director's expenses.

(2) The individual legally responsible for the burial of the deceased is unable to pay the funeral director's expenses.

(c) If the division determines that the estate of the deceased is sufficient to pay all or part of the funeral director's expenses, the division:

(1) shall pay six hundred dollars ($600) for expenses that the funeral director has incurred; and

(2) may recover the amount paid by the division under this section as a preferred claim from the estate of the deceased.

SECTION 93. IC 12-15-1-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. The office may enter into an agreement with the Secretary of the United States Department of Health and Human Services under which the Secretary shall accept applications and make determinations of eligibility for Medicaid for **individuals who are** aged, **individuals who are** blind, and ~~disabled~~ individuals **with a disability** in accordance with the standards and criteria established by the state plan for Medicaid in effect January 1, 1972.

SECTION 94. IC 12-15-2-0.5, AS AMENDED BY P.L.2-2005, SECTION 48, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 0.5. (a) This section applies to a person who qualifies for assistance:

(1) under sections 13 through 16 of this chapter;

(2) under section 6 of this chapter when the person becomes ineligible for medical assistance under IC 12-14-2-5.1 or IC 12-14-2-5.3; or

(3) as ~~a disabled person~~ **an individual with a disability** if the person is less than eighteen (18) years of age and otherwise qualifies for assistance.

(b) Notwithstanding any other law, the following may not be construed to limit health care assistance to a person described in subsection (a):

(1) IC 12-8-1-13.

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(2) IC 12-14-1-1.
(3) IC 12-14-1-1.5.
(4) IC 12-14-2-5.1.
(5) IC 12-14-2-5.2.
(6) IC 12-14-2-5.3.
(7) IC 12-14-2-17.
(8) IC 12-14-2-18.
(9) IC 12-14-2-20.
(10) IC 12-14-2-21.
(11) IC 12-14-2-22.
(12) IC 12-14-2-24.
(13) IC 12-14-2-25.
(14) IC 12-14-2-26.
(15) IC 12-14-2.5.
(16) IC 12-14-5.5.
(17) Section 21 of this chapter.
(18) IC 12-15-5-3.

SECTION 95. IC 12-15-4-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. Medicaid shall be granted to an applicant who is eligible for assistance under IC 12-15-2 and who meets the following requirements:

(1) Has made an application or a request for Medicaid in the manner required by the office or for whom an application or a request has been made.

(2) Is a resident of Indiana, including a resident temporarily absent from Indiana, and minor children who are under the care, supervision, and control of a parent or other relative who is a resident of Indiana.

(3) Has not made a transfer of property for the purpose of making the applicant eligible for Medicaid.

(4) Does not have a spouse having sufficient income to furnish medical assistance, or a parent having sufficient income to furnish medical assistance if the applicant is a ~~blind or disabled~~ child **who is blind or has a disability** and who is less than eighteen (18) years of age.

SECTION 96. IC 12-15-41-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11. (a) The office shall establish criteria to base the annual redetermination of disability required under 405 IAC 2-2-3(b) for an individual participating in the buy-in program on the individual's medical evidence, including evidence of physical or mental impairment.

(b) In conducting the annual redetermination described in

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subsection (a), the office may not determine that an individual participating in the buy-in program is no longer ~~disabled~~ **an individual with a disability** based solely on the individual's:

(1) participation in employment;

(2) earned income; or

(3) income from self-employment.

SECTION 97. IC 12-17-19-13, AS ADDED BY P.L.1-2005, SECTION 32, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 13. The goals of step ahead are to:

(1) identify and recognize the various eligible programs available in each county at federal, state, local, and private levels;

(2) encourage coordination and cooperation among the eligible programs described in subdivision (1) and to discourage duplication of services;

(3) provide comprehensive eligible programs countywide that are accessible to all eligible children and affordable to the children's parents;

(4) recognize the specific service needs of and unique resources available to particular counties, develop statewide resource listings, and incorporate flexibility regarding the implementation of eligible programs;

(5) prevent or minimize the potential for developmental delay in children before the children reach the age of compulsory school attendance under IC 20-33-2;

(6) enhance certain federally funded eligible programs;

(7) strengthen the family unit through:

(A) encouragement of parental involvement in a child's development and education;

(B) prevention of disruptive employment conditions for parents who are employed; and

(C) enhancement of the capacity of families to meet the special needs of their children, including those children with disabilities;

(8) reduce the educational costs to society by reducing the need for special education services after children reach school age;

(9) ensure that children with disabilities are integrated, when appropriate, into programs available to children ~~who are not disabled,~~ **without disabilities;** and

(10) ensure that every child who enrolls in kindergarten in Indiana has benefited since birth from eligible programs available under step ahead.

SECTION 98. IC 12-17-19-18, AS ADDED BY P.L.1-2005,

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SECTION 32, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 18. (a) The panel shall do the following:

(1) Establish guidelines to implement this chapter that comply with the regulations governing the distribution of the Child Care and Development Block Grant under 42 U.S.C. 9858 et seq., including guidelines on the following:

(A) Subject to the requirements under sections 20 and 22 of this chapter, the content of the application and step ahead proposal.

(B) The types of early childhood programs that are eligible programs.

(C) Income eligibility guidelines for parents who are unable to afford the services provided by eligible entities.

(D) Subject to the availability of funds, a schedule for awarding coordination and implementation grants and the criteria used to award those grants under this chapter, including the following:

(i) The degree to which available eligible programs are coordinated within the county under the proposal.

(ii) The extent of community commitment to step ahead initiatives.

(iii) The relative need for the county to become a step ahead county.

(iv) The extent to which multiple eligible programs and services are collocated throughout the county, including public schools.

(v) The extent to which the school corporations within the county cooperate in step ahead initiatives.

(vi) The quality reflected by comprehensive programming for preschool services and the commitment to consistent staff training opportunities.

(vii) The extent to which proposed eligible programs provide integrated programs for children with disabilities and children ~~who are not disabled.~~ **without disabilities.**

(E) Any limitations in the expenditure of step ahead grants.

(F) Requirements for grant recipients or the step ahead county coordinator to report on the implementation of the step ahead programs within the county.

(G) The distribution of federal funds, including the Child Care and Development Block Grant under 42 U.S.C. 9858 et seq., and other available funds to eligible programs.

(H) Any other pertinent matter.

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(2) Develop minimum standards for eligible programs.

(3) Review each step ahead application for a coordination grant and each proposal for an implementation grant submitted by the convener.

(4) Approve those proposals that comply with this chapter.

(5) Conduct the assessments of step ahead programs under section 24 of this chapter.

(6) Monitor the overall implementation of step ahead, encourage the collaboration through the department of education's early childhood division to promote consistency in state efforts for young children, and report to the governor on the implementation of step ahead.

(7) Any other task to facilitate the implementation of step ahead.

(b) The panel may contract for services to assist in the implementation of the step ahead program.

(c) The panel may designate as a step ahead county and step ahead grant recipient more than one (1) county if the participating counties:

(1) are contiguous to each other; and

(2) agree to jointly comply with this chapter.

SECTION 99. IC 12-20-27-1, AS AMENDED BY P.L.73-2005, SECTION 149, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) Subject to IC 12-20-11-5(b), a township trustee who, as administrator of township assistance, furnishes township assistance, may file a claim against the estate of a township assistance recipient who:

(1) dies, leaving an estate; and

(2) is not survived by: ~~a.~~

(A) **a** spouse;

(B) ~~disabled~~ **an** adult dependent **with a disability;** or

(C) **a** dependent child less than eighteen (18) years of age;

for the value of township assistance given the recipient before the recipient's death.

(b) For purposes of this section, the estate of a township assistance recipient includes any money or other personal property in the possession of a coroner under IC 36-2-14-11.

SECTION 100. IC 12-21-2-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) In addition to the general authority granted to the director under IC 12-8-8, the director shall do the following:

(1) Organize the division, create the appropriate personnel positions, and employ personnel necessary to discharge the statutory duties and powers of the division or a bureau of the

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division.

(2) Subject to the approval of the state personnel department, establish personnel qualifications for all deputy directors, assistant directors, bureau heads, and superintendents.

(3) Subject to the approval of the budget director and the governor, establish the compensation of all deputy directors, assistant directors, bureau heads, and superintendents.

(4) Study the entire problem of mental health, mental illness, and addictions existing in Indiana.

(5) Adopt rules under IC 4-22-2 for the following:

(A) Standards for the operation of private institutions that are licensed under IC 12-25 for the diagnosis, treatment, and care of individuals with psychiatric disorders, addictions, or other abnormal mental conditions.

(B) Licensing supervised group living facilities described in IC 12-22-2-3 for individuals ~~who are mentally ill.~~ **with a mental illness.**

(C) Certifying community residential programs described in IC 12-22-2-3 for individuals ~~who are mentally ill.~~ **with a mental illness.**

(D) Certifying community mental health centers to operate in Indiana.

(E) Establish exclusive geographic primary service areas for community mental health centers. The rules must include the following:

(i) Criteria and procedures to justify the change to the boundaries of a community mental health center's primary service area.

(ii) Criteria and procedures to justify the change of an assignment of a community mental health center to a primary service area.

(iii) A provision specifying that the criteria and procedures determined in items (i) and (ii) must include an option for the county and the community mental health center to initiate a request for a change in primary service area or provider assignment.

(iv) A provision specifying the criteria and procedures determined in items (i) and (ii) may not limit an eligible consumer's right to choose or access the services of any provider who is certified by the division of mental health and addiction to provide public supported mental health services.

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(6) Institute programs, in conjunction with an accredited college or university and with the approval, if required by law, of the commission for higher education under IC 20-12-0.5, for the instruction of students of mental health and other related occupations. The programs may be designed to meet requirements for undergraduate and postgraduate degrees and to provide continuing education and research.

(7) Develop programs to educate the public in regard to the prevention, diagnosis, treatment, and care of all abnormal mental conditions.

(8) Make the facilities of the Larue D. Carter Memorial Hospital available for the instruction of medical students, student nurses, interns, and resident physicians under the supervision of the faculty of the Indiana University School of Medicine for use by the school in connection with research and instruction in psychiatric disorders.

(9) Institute a stipend program designed to improve the quality and quantity of staff that state institutions employ.

(10) Establish, supervise, and conduct community programs, either directly or by contract, for the diagnosis, treatment, and prevention of psychiatric disorders.

(11) Adopt rules under IC 4-22-2 concerning the records and data to be kept concerning individuals admitted to state institutions, community mental health centers, or managed care providers.

(12) Establish, maintain, and reallocate before July 1, 1996, one-third (1/3), and before January 1, 1998, the remaining two-thirds (2/3) of the following:

(A) long term care service settings; and

(B) state operated long term care inpatient beds;

designed to provide services for patients with long term psychiatric disorders as determined by the quadrennial actuarial study under IC 12-21-5-1.5(9). A proportional number of long term care service settings and inpatient beds must be located in an area that includes a consolidated city and its adjacent counties.

(13) Compile information and statistics concerning the ethnicity and gender of a program or service recipient.

(14) Establish standards for each element of the continuum of care for community mental health centers and managed care providers.

(b) As used in this section, "long term care service setting" means the following:

(1) The anticipated duration of the patient's mental health setting

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is more than twelve (12) months.

(2) Twenty-four (24) hour supervision of the patient is available.

(3) A patient in the long term care service setting receives:

(A) active treatment if appropriate for a patient with a chronic and persistent mental disorder or chronic addictive disorder;

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

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

(4) Crisis care is available.

(c) Funding for services under subsection (a)(12) shall be provided by the division through the reallocation of existing appropriations. The need of the patients is a priority for services. The division shall adopt rules to implement subsection (a)(12) before July 1, 1995.

SECTION 101. IC 12-21-2-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) Subject to subsection (b), the director may delegate statutory duties or powers of the division, a bureau of the division, the director, or other statutorily created personnel.

(b) If the director decides that a final decision is to be made concerning the placement of ~~a mentally ill~~ **an** individual **with a mental illness** in a mental health facility, the final decision must be made:

(1) by the director, if the director is a licensed psychiatrist or licensed psychologist; or

(2) by a licensed psychiatrist or licensed psychologist who is delegated the authority by the director;

in consultation with the patient's psychiatrist or psychologist.

(c) Subsection (b) does not apply to an initial placement designation made under IC 12-24-12-10(b).

SECTION 102. IC 12-21-2-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. (a) The director shall develop a comprehensive system of monitoring, evaluation, and quality 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

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principles and actuarial principles recognizing costs incurred by efficiently and economically operated programs that:

(1) serve ~~mentally ill~~ **individuals with a mental illness** 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 mental health and addiction 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 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 103. IC 12-21-5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. The division is responsible for the following:

(1) The planning, research, and development of programs and methods for the education and treatment of ~~emotionally disturbed~~ children **with an emotional disturbance.**

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(2) The coordination of governmental services, activities, and programs in Indiana relating to such children.

(3) The administration of the state supported services concerned with such children.

(4) The preparation of the annual report required by IC 7.1-6-2-5.

SECTION 104. IC 12-22-1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. As used in this chapter, "respite care" means temporary institutional or noninstitutional care:

(1) for ~~a mentally ill~~ **an** individual **with a mental illness** who:

(A) lives at home; and

(B) is cared for by the individual's family or other caretaker; and

(2) that is provided because the family or caretaker is temporarily unable or unavailable to provide needed care.

SECTION 105. IC 12-22-1-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. The division may institute a program of respite care for ~~mentally ill~~ individuals **with a mental illness.** The program may include the following:

(1) Training of private individuals to enable the individuals to provide respite care in the individuals' own homes or in the homes of ~~mentally ill~~ individuals **with a mental illness.**

(2) Certifying residential facilities such as group homes, health facilities (as defined in IC 16-18-2-167), community residential facilities licensed under IC 12-28-5, and other private homes as suitable for providing respite care under this chapter.

(3) Contracting for the provision of respite care.

(4) Working with other state and local agencies to develop a coordinated program that serves the respite care needs of ~~mentally ill~~ individuals **with a mental illness** throughout Indiana.

SECTION 106. IC 12-22-1-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) If:

(1) a parent or guardian of ~~a mentally ill~~ **an** individual **with a mental illness** requests the division to assist the parent or guardian in obtaining respite care for the ~~mentally ill~~ individual **with a mental illness;** and

(2) the individual has been cared for in the home of the individual's parent or guardian for the preceding three (3) months;

the division shall determine if there is a person who can provide appropriate respite care for the individual or a residential facility that has the staff and bed space and can provide the services the individual needs during the period of respite care. If the division determines that

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such a person or facility exists, the division shall inform the parent or guardian and, if needed, shall provide assistance to the parent or guardian in making the arrangements for respite care.

(b) If:

(1) the division determines that such a person or residential facility does not exist or if the parent or guardian does not want to use the services identified by the division; and

(2) an appropriate state institution is located in the ~~mentally ill individual's~~ geographic area **of the individual with a mental illness;**

the division may place the ~~mentally ill~~ individual **with a mental illness** in a state institution.

SECTION 107. IC 12-22-1-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) Each state institution administered by the division shall provide respite care.

(b) A state institution administered by the division is not required to accept ~~a mentally ill~~ **an** individual **with a mental illness** for respite care if the superintendent determines that:

(1) there is insufficient money, staff, or bed space; or

(2) the state institution is incapable of providing the services that the individual needs during the individual's stay.

(c) The parent or guardian of ~~a mentally ill~~ **an** individual **with a mental illness** may accept or reject a suggested placement under this section.

SECTION 108. IC 12-22-1-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. The division may subsidize a part of the reasonable costs of respite care provided under section 3(a) of this chapter if the following conditions exist:

(1) The ~~mentally ill~~ individual **with a mental illness** is not eligible under the Medicaid program.

(2) The division does not subsidize any part of the costs of more than twenty (20) days of respite care provided to an individual in a calendar year.

SECTION 109. IC 12-22-2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. The division shall plan, develop, and administer programs of community based residential alternatives to placement in state institutions and nursing facilities licensed under IC 16-28 for individuals ~~who are mentally ill.~~ **with a mental illness.**

SECTION 110. IC 12-22-2-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. The programs consist of the following, which are listed in the order of the most

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restrictive setting to the least restrictive setting:

(1) Sub-acute stabilization programs that serve at least four (4) individuals and not more than fifteen (15) individuals, and if the program serves ~~mentally ill~~ individuals **with a mental illness** to provide sub-acute stabilization services to individuals on a short term basis. However, the director may waive the limitation for a sub-acute stabilization program.

(2) Supervised group living programs, which serve at least four (4) individuals and not more than fifteen (15) individuals, if the program serves ~~mentally ill~~ individuals **with a mental illness.** However, the director may waive the limitation for a supervised group living program that:

(A) was in existence on June 30, 1985; or

(B) **after June 30, 1985,** provides long term care to ~~mentally ill~~ individuals ~~after June 30, 1985.~~ **with a mental illness.**

The program and the individuals served by the program shall be closely supervised by trained individuals.

(3) Alternative family programs, which serve not more than six (6) individuals who reside with an unrelated householder. The householder must be instructed on the needs of individuals in the program.

(4) Semi-independent living programs, which serve not more than six (6) individuals who require only limited supervision. The supervision must be on a regular basis and take into account emergency needs of the individuals in the program.

(5) Independent living support services for individuals residing independently with the individuals' families or with relatives. The services are temporary or provided intermittently.

(6) Supported living service arrangements to meet the unique needs of individuals in integrated settings.

SECTION 111. IC 12-22-2-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) Except as provided in subsection (b), an individual may not be placed in a program described in section 3(1), 3(2), or 3(3) of this chapter until after an evaluation approved by the division indicates the following:

(1) Placement in a particular program of services is appropriate.

(2) Treatment and crisis intervention services needed by ~~a mentally ill~~ **an** individual **with a mental illness** are available.

(b) Emergency placements of not more than sixty (60) days may be made without an evaluation.

SECTION 112. IC 12-22-2-6, AS AMENDED BY P.L.145-2006, SECTION 123, IS AMENDED TO READ AS FOLLOWS

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[EFFECTIVE UPON PASSAGE]: Sec. 6. The division may continue the placement of ~~a mentally ill~~ **an** individual **with a mental illness** in a child caring institution licensed under IC 31-27, a county home regulated by IC 12-30-3, or a health facility licensed under IC 16-28 if:

(1) the individual was placed in the institution, home, or facility before July 1, 1985; and

(2) the placement continues to be appropriate for the individual, as determined by the division.

SECTION 113. IC 12-22-2-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. An individual who: ~~is:~~

(1) ~~mentally ill,~~ **has a mental illness;** and

(2) **is** eligible under the Medicaid program;

remains eligible for Medicaid if transferred to a community residential program described in section 3(1), 3(2), 3(3), or 3(4) of this chapter.

SECTION 114. IC 12-22-2-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11. (a) An entity may not:

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

(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,~~ **with a mental illness;**

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

(b) The division of mental health and addiction 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 of a community residential program described in subsection (b) is operating without a required license or certification; or

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

(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 mental health and addiction may provide for the removal of ~~mentally ill~~ individuals **with a mental illness** from facilities for ~~the mentally ill~~ **individuals with a mental illness** described in subsection (c).

(e) There must be an opportunity for an informal meeting with the division of mental health and addiction 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 115. IC 12-22-3-4, AS AMENDED BY P.L.145-2006, SECTION 124, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. The bureau head is responsible for the following:

(1) Developing a definition and criteria for emotional disturbance and serious emotional disturbance.

(2) Assessing current and projected needs for ~~emotionally disturbed~~ children and youth **with an emotional disturbance** within geographic areas of Indiana.

(3) Developing an annual plan for children's mental health services, including an implementation plan and fiscal requirements.

(4) Developing the budget and budget requests for the bureau.

(5) Implementing plans required under federal Public Law 99-660 (1986).

(6) Developing and coordinating programs and services for prevention and family support.

(7) Providing technical assistance and oversight of children's mental health programs and services within mental health facilities that are licensed or certified by the state.

(8) Coordinating with the director of the department of child services on matters concerning children with mental health needs.

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(9) Coordinating with other bureaus of the division.

(10) Maintaining sufficient staff to carry out the duties of the bureau.

SECTION 116. IC 12-24-1-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. A director, or the directors of the affected state institutions, may do the following:

(1) Transfer a ~~developmentally disabled~~ patient **with a developmental disability** between state institutions.

(2) In consultation with the patient's treating physician, transfer a ~~mentally ill~~ patient **with a mental illness** between state institutions.

SECTION 117. IC 12-24-11-2, AS AMENDED BY P.L.141-2006, SECTION 65, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) This section applies to an individual who has a primary diagnosis of developmental disability.

(b) Action contemplated by a patient under this section includes action by the patient's parent or guardian if the patient is not competent.

(c) If a patient is admitted to a state institution, the staff of the state institution shall, before the patient is discharged, ask the patient whether the patient's medical and treatment records may be sent to a service coordinator employed by the division of disability and rehabilitative services under IC 12-11-2.1 so the service coordinator may send the records to local agencies serving the needs of ~~developmentally disabled~~ individuals **with a developmental disability** in the area in which the patient will reside.

(d) If a patient agrees to release the records, the patient shall sign a form permitting the state institution to release to a service coordinator employed by the division of disability and rehabilitative services under IC 12-11-2.1 a copy of the patient's medical and treatment records to forward to local agencies serving the needs of ~~developmentally disabled~~ individuals **with a developmental disability** in the area in which the patient will reside. The form must read substantially as follows:

AUTHORIZATION TO RELEASE
MEDICAL AND TREATMENT
RECORDS

I agree to permit _____
(name of state institution)
to release a copy of the medical and treatment records of

_____	to _____
(patient's name)	(name of local agency
	serving the needs of

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	~~developmentally disabled~~ individuals **with a developmental disability)**
_____ (date)	_____ (signature)
	_____ (address)
_____ (signature of individual securing release of medical and treatment records)	_____ (relationship to patient if signature is not that of the patient)

(e) If a patient knowingly signs the form for the release of medical records under subsection (d), a service coordinator employed by the division of disability and rehabilitative services under IC 12-11-2.1 shall allow local agencies serving the needs of ~~developmentally disabled~~ individuals **with a developmental disability** in the area in which the patient will reside to obtain the following:

(1) The patient's name.

(2) The address of the patient's intended residence.

(3) The patient's medical records.

(4) A complete description of the treatment the patient was receiving at the state institution at the time of the patient's discharge.

(f) If the local agency does not obtain a patient's records, the state institution shall deliver the medical records to the local agency before or at the time the patient is discharged.

(g) If a patient does not agree to permit the release of the patient's medical and treatment records, the service coordinator shall deliver:

(1) the patient's name; and

(2) the address of the patient's intended residence;

to local agencies serving the needs of ~~developmentally disabled~~ individuals **with a developmental disability** in the area in which the patient will reside before or at the time the patient is discharged.

SECTION 118. IC 12-24-11-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. Immediately upon receiving a patient's medical records or a patient's name and address under section 2 of this chapter, IC 12-24-12, or IC 12-26-11, the community mental health center, the managed care provider, or the local agency serving the needs of ~~the developmentally disabled~~ **individuals with a developmental disability** shall do the following:

(1) Contact:

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(A) the patient; or

(B) the patient's parent or guardian if the patient is not competent.

(2) Explain the types of services that are available to the patient in the area in which the patient will reside.

SECTION 119. IC 12-24-17-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. As used in this chapter, "patient" means an individual who:

(1) ~~is mentally ill~~ **has a mental illness** or appears to ~~be mentally ill,~~ **have a mental illness;**

(2) is in or under the supervision and control of a state institution; or

(3) because of mental illness, is under the supervision and control of a circuit or superior court of Indiana.

SECTION 120. IC 12-24-17-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. A person who:

(1) neglects, when the person has a duty of care;

(2) abuses; or

(3) maltreats;

~~a mentally ill~~ **an** individual **with a mental illness** or an individual with a developmental disability under the care of a state institution commits a Class B misdemeanor.

SECTION 121. IC 12-24-19-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) This chapter applies only to a patient who is transferred or discharged from a state institution administered by the division of mental health and addiction.

(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.~~ **with a mental illness.**

(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 122. IC 12-26-1-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) If a commitment proceeding is begun under IC 12-26-3-5,

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IC 12-26-6-2(a)(1), or IC 12-26-6-2(a)(3), the court acquires jurisdiction over the ~~alleged mentally ill~~ individual **alleged to have a mental illness** by service of summons on the individual according to the Indiana Rules of Trial Procedure or by entry of an appearance by the individual.

(b) If an individual is being held under IC 12-26-6-2(a)(2), the court retains jurisdiction over the individual by the court's order for continued detention.

SECTION 123. IC 12-26-2-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) This section applies under the following statutes:

(1) IC 12-26-6.
(2) IC 12-26-7.
(3) IC 12-26-12.
(4) IC 12-26-15.

(b) The individual alleged to ~~be mentally ill~~ **have a mental illness** has the following rights:

(1) To receive adequate notice of a hearing so that the individual or the individual's attorney can prepare for the hearing.
(2) To receive a copy of a petition or an order relating to the individual.
(3) To be present at a hearing relating to the individual. The individual's right under this subdivision is subject to the court's right to do the following:
(A) Remove the individual if the individual is disruptive to the proceedings.
(B) Waive the individual's presence at a hearing if the individual's presence would be injurious to the individual's mental health or well-being.
(4) To be represented by counsel.

SECTION 124. IC 12-26-2-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) This section applies under the following statutes:

(1) IC 12-26-6.
(2) IC 12-26-7.
(3) IC 12-26-12.
(4) IC 12-26-15.

(b) The individual alleged to ~~be mentally ill,~~ **have a mental illness,** each petitioner, and all other interested individuals shall be given an opportunity to appear at hearings and to testify.

(c) The individual alleged to ~~be mentally ill~~ **have a mental illness** and each petitioner may present and cross-examine witnesses at

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hearings.

(d) The court may receive the testimony of any individual.

SECTION 125. IC 12-26-2-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) This section applies under the following statutes:

(1) IC 12-26-6.

(2) IC 12-26-7.

(3) IC 12-26-12.

(4) IC 12-26-15.

(b) The individual alleged to ~~be mentally ill~~ **have a mental illness** and a petitioner:

(1) has a right to a change of judge; and

(2) is not entitled to a change of venue from the county.

SECTION 126. IC 12-26-2-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. (a) A person who without malice, bad faith, or negligence acts according to this article and:

(1) participates in proceedings for the detention or commitment of an individual; or

(2) assists in the detention, care, and treatment of an individual alleged or adjudged to ~~be mentally ill,~~ **have a mental illness;**

is immune from any civil or criminal liability that might otherwise be imposed as a result of the person's actions.

(b) The immunity provided by this section does not permit a person to do either of the following:

(1) Physically abuse an individual.

(2) Deprive an individual of a personal or civil right except according to this article.

SECTION 127. IC 12-26-3-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. The superintendent of a facility or an individual's attending physician may admit an Indiana resident who:

(1) ~~is mentally ill~~ **has a mental illness** or has symptoms of mental illness; and

(2) makes an appropriate application;

for observation, diagnosis, care, or treatment.

SECTION 128. IC 12-26-3-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. The superintendent or an individual's attending physician may discharge an individual admitted under this chapter if the superintendent or the attending physician determines that:

(1) care in the facility is not necessary; or

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(2) the discharge would contribute to the most effective use of the facility for the care and treatment of ~~the mentally ill.~~ **individuals with a mental illness.**

SECTION 129. IC 12-26-4-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. A law enforcement officer, having reasonable grounds to believe that an individual ~~is mentally ill,~~ **has a mental illness, is** dangerous, and **is** in immediate need of hospitalization and treatment, may do the following:

(1) Apprehend and transport the individual to the nearest appropriate facility. The individual may not be transported to a state institution.

(2) Charge the individual with an offense if applicable.

SECTION 130. IC 12-26-5-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 12. If it is determined that there was not probable cause to believe that an individual ~~was mentally ill~~ **had a mental illness** and **was** dangerous when taken into custody and transported to the facility to be detained, the costs of transportation to and care and maintenance in the facility during the period of detention shall be paid by the county in which the individual was taken into custody.

SECTION 131. IC 12-28-1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) It is the policy of the state that every ~~developmentally disabled~~ individual **with a developmental disability,** ~~mentally ill~~ individual **with a mental illness,** and individual seeking or receiving vocational rehabilitation services has the same right to legal and other professional and lay representational services to promote, protect, and advocate the individual's interests as any other individual.

(b) It is the intent of this chapter to secure to the state, the state's local units of government, and Indiana citizens maximum benefits under the Developmentally Disabled Assistance and Bill of Rights Act (P.L.94-103), and to this end this chapter should be liberally construed.

SECTION 132. IC 12-28-1-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. As used in this chapter, "advocacy" means speaking for, pleading for, supporting, advising, espousing the rights of, or interceding on behalf of individuals with developmental disabilities, ~~mentally ill~~ individuals **with a mental illness,** or individuals seeking or receiving vocational rehabilitation services before public or private agencies, organizations, institutions, or individuals serving ~~developmentally disabled~~ individuals **with a developmental disability** or ~~mentally ill~~ individuals **with a mental illness** or providing vocational rehabilitation services.

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SECTION 133. IC 12-28-1-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. (a) The Indiana protection and advocacy services commission is established. The commission is composed of thirteen (13) members who represent or who are knowledgeable about the needs of individuals served by the commission, including mental retardation, cerebral palsy, epilepsy, autism, and mental illness to be appointed as follows:

(1) Four (4) members to be appointed by the governor.

(2) Nine (9) members to be appointed by a majority vote of commission members.

(b) An official or employee of a branch of state government that delivers services to ~~the~~ individuals ~~who are developmentally disabled,~~ **with a developmental disability,** ~~mentally ill,~~ **with a mental illness,** or seeking or receiving vocational rehabilitation services is not eligible for membership on the commission.

(c) One (1) member of the senate appointed by the president pro tempore of the senate and one (1) member of the house of representatives appointed by the speaker of the house of representatives serve in an advisory nonvoting capacity to the commission.

SECTION 134. IC 12-28-1-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11. The primary purpose of the commission is to assure adequate legal and advocacy services for the:

(1) promotion;

(2) protection; and

(3) advocacy;

of the rights and interests of ~~developmentally disabled~~ individuals **with a developmental disability,** ~~mentally ill~~ individuals **with a mental illness,** and individuals who are seeking or receiving vocational rehabilitation services throughout Indiana.

SECTION 135. IC 12-28-1-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 12. Notwithstanding IC 4-6-2, the commission has the following powers, duties, and functions:

(1) Establish and maintain all necessary offices.

(2) Subject to IC 4-15-2:

(A) appoint;

(B) fix the compensation for; and

(C) prescribe the duties of;

the attorneys, other employees, and agents the commission considers necessary.

(3) Provide legal and other advocacy services throughout Indiana

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to individuals or organizations on matters related to the protection of the legal and human rights of ~~developmentally disabled~~ individuals **with a developmental disability,** ~~mentally ill~~ individuals **with a mental illness,** and individuals who are seeking or receiving vocational rehabilitation services.

(4) Enter into contractual relationships and sue and be sued in the name of the services.

(5) Apply for, solicit, and accept contributions or grants of money, property, or services made by gift, devise, bequest, grant, or other means from any source that the commission considers best to assist the services in performing its purpose.

(6) Provide information and referral services.

(7) Adopt rules under IC 4-22-2 to do the following:

(A) Establish and operate local protection and advocacy service units.

(B) Operate the service.

(C) Perform the commission's duties.

(8) Ensure full participation in the electoral process in individuals with disabilities, including registering to vote, casting a vote, and accessing polling places, in accordance with 42 U.S.C. 15461 through 15462.

SECTION 136. IC 12-28-1-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 13. ~~A mentally ill~~ **An** individual **with a mental illness** is eligible for services under this chapter if the individual:

(1) has a significant mental illness or emotional impairment, as determined by a mental health professional qualified under Indiana statutes and rules; and

(2) is:

(A) an inpatient or a resident in a facility rendering care or treatment even if the location of the inpatient or resident is unknown;

(B) in the process of being admitted to a facility rendering care or treatment, including an individual being transported to the facility; or

(C) involuntarily confined in a municipal detention facility for reasons other than serving a sentence resulting from conviction for a crime.

SECTION 137. IC 12-28-4-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. This chapter applies to residential facilities for both ~~developmentally disabled individuals~~ **individuals with a developmental disability** and ~~mentally~~

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~~ill individuals.~~ **individuals with a mental illness.**

SECTION 138. IC 12-28-4-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. Residential facilities for ~~the developmentally disabled~~ **individuals with a developmental disability** must have sufficient qualified training and habilitation support staff so that the residential facility, regardless of organization or design, has appropriately qualified and adequately trained staff (not necessarily qualified mental retardation professionals (as defined in 42 CFR 442.401)) to conduct the activities of daily living, self-help, and social skills that are minimally required based on each recipient's needs and, if appropriate, for federal financial participation under the Medicaid program.

SECTION 139. IC 12-28-4-4, AS AMENDED BY P.L.141-2006, SECTION 69, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. For residential facilities for ~~the developmentally disabled~~ **individuals with a developmental disability** that are certified for financial participation under the Medicaid program, the division of disability and rehabilitative services shall recommend staffing limitations consistent with the program needs of the residents as a part of the office of Medicaid policy and planning's rate setting procedures.

SECTION 140. IC 12-28-4-5, AS AMENDED BY P.L.141-2006, SECTION 70, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. For residential facilities for ~~the developmentally disabled~~ **individuals with a developmental disability** that are not certified for financial participation under the Medicaid program, the division of disability and rehabilitative services shall approve appropriate staffing limitations consistent with the program needs of the residents as a part of the division's rate setting procedures.

SECTION 141. IC 12-28-4-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. (a) A zoning ordinance (as defined in IC 36-7-1-22) may not exclude a residential facility for ~~the mentally ill~~ **individuals with a mental illness** from a residential area solely because the residential facility is a business or because the individuals residing in the residential facility are not related. The residential facility may be required to meet all other zoning requirements, ordinances, and laws.

(b) A zoning ordinance may exclude a residential facility for ~~the mentally ill~~ **individuals with a mental illness** from a residential area if the residential facility will be located within three thousand (3,000) feet of another residential facility for ~~the mentally ill,~~ **individuals with**

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a mental illness, as measured between lot lines.

SECTION 142. IC 12-28-4-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. (a) A residential facility for ~~the developmentally disabled:~~ **individuals with a developmental disability:**

(1) for not more than eight (8) ~~developmentally disabled~~ individuals **with a developmental disability;** and

(2) established under a program authorized by IC 12-11-1.1-1(e)(1) or IC 12-11-1.1-1(e)(2);

is a permitted residential use that may not be disallowed by any zoning ordinance (as defined in IC 36-7-1-22) in a zoning district or classification that permits residential use.

(b) A zoning ordinance may only require a residential facility described in subsection (a) to meet the same:

(1) zoning requirements;

(2) developmental standards; and

(3) building codes;

as other residential structures or improvements in the same residential zoning district or classification.

SECTION 143. IC 12-28-4-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. (a) This section applies to each restriction, reservation, condition, exception, or covenant that is created before April 1, 1988, in any subdivision plat, deed, or other instrument of, or pertaining to, the transfer, sale, lease, or use of property.

(b) A restriction, a reservation, a condition, an exception, or a covenant in a subdivision plat, deed, or other instrument of, or pertaining to, the transfer, sale, lease, or use of property that would permit the residential use of property but prohibit the use of that property as a residential facility for ~~developmentally disabled~~ individuals **with a developmental disability** or ~~mentally ill~~ individuals **with a mental illness:**

(1) on the ground that the residential facility is a business;

(2) on the ground that the individuals residing in the residential facility are not related; or

(3) for any other reason;

is, to the extent of the prohibition, void as against the public policy of the state.

SECTION 144. IC 12-28-4-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. (a) This section applies to each restriction, reservation, condition, exception, or covenant that is created on or after April 1, 1988, in any subdivision

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plat, deed, or other instrument of, or pertaining to, the transfer, sale, lease, or use of property.

(b) A restriction, a reservation, a condition, an exception, or a covenant in a subdivision plat, deed, or other instrument of, or pertaining to, the transfer, sale, lease, or use of property that would permit the residential use of property but prohibit the use of that property as a residential facility for ~~developmentally disabled~~ individuals **with a developmental disability** or ~~mentally ill~~ individuals **with a mental illness:**

(1) on the ground that the residential facility is a business;

(2) on the ground that the individuals residing in the residential facility are not related; or

(3) for any other reason;

is, to the extent of the prohibition, void as against the public policy of the state.

SECTION 145. IC 12-28-4-13, AS AMENDED BY P.L.141-2006, SECTION 73, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 13. (a) The division of disability and rehabilitative services may operate a program known as the development and lease effort. Under the program, the division of disability and rehabilitative services may develop contracts under which the state agrees to lease buildings from private parties for use as residential facilities for ~~mentally ill~~ individuals **with a mental illness** or ~~autistic~~ **individuals with autism** or other ~~developmentally disabled~~ individuals **with a developmental disability.** Notwithstanding any other law, each contract may include provisions that ensure the following:

(1) That the state will lease a building for not more than ten (10) years for use as a residential facility for ~~autistic~~ individuals **with autism.**

(2) That the state will retain the right to extend the term of the lease for not more than ten (10) years at the conclusion of the first ten (10) years.

(3) That the state will retain the right to sublease the building to a person who agrees to operate the building as a residential facility for ~~autistic~~ individuals **with autism** under this chapter.

(b) Leases entered into under this section are subject to the approval of the Indiana department of administration, the attorney general, the governor, and the budget agency, as provided by law.

SECTION 146. IC 12-28-5-2, AS AMENDED BY P.L.141-2006, SECTION 74, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) The community residential facilities

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council is established. The council consists of the following members appointed by the governor:

(1) One (1) professional possessing specialized training in the field of human development.

(2) One (1) member of the professional staff of the division of disability and rehabilitative services.

(3) One (1) member of the professional staff of the office of Medicaid policy and planning.

(4) One (1) member of the professional staff of the state department of health.

(5) One (1) individual possessing a special interest in ~~developmentally disabled~~ individuals **with a developmental disability.**

(6) One (1) individual possessing a special interest in ~~mentally ill~~ individuals **with a mental illness.**

(7) One (1) individual who is the chief executive officer of a facility providing both day services and residential services for ~~developmentally disabled~~ individuals **with a developmental disability.**

(8) One (1) individual who is the chief executive officer of a facility providing residential services only for ~~developmentally disabled~~ individuals **with a developmental disability.**

(9) One (1) individual who is a member of the professional staff of the Indiana protection and advocacy services commission. The individual appointed under this subdivision is an ex officio member of the council.

(10) One (1) individual who is the chief executive officer of an entity providing only supported living services.

(11) One (1) individual who is receiving services through the bureau of developmental disabilities services.

(12) Two (2) members of the public. One (1) member appointed under this subdivision may be a member of a representative organization of state employees.

(b) Except for the members designated by subsection (a)(7), (a)(8), and (a)(10), a member of the council may not have an indirect or a direct financial interest in a residential facility for ~~the developmentally disabled.~~ **individuals with a developmental disability.**

SECTION 147. IC 12-28-5-10, AS AMENDED BY P.L.141-2006, SECTION 75, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. In conjunction with the division of disability and rehabilitative services, the council shall do the following:

(1) Determine the current and projected needs of each geographic

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area of Indiana for residential services for ~~developmentally disabled~~ individuals **with a developmental disability.**

(2) Determine how the provision of developmental or vocational services for residents in these geographic areas affects the availability of developmental or vocational services to ~~developmentally disabled~~ individuals **with a developmental disability** living in their own homes.

(3) Develop standards for licensure of supervised group living facilities regarding the following:

(A) A sanitary and safe environment for residents and employees.

(B) Classification of supervised group living facilities.

(C) Any other matters that will ensure that the residents will receive a residential environment.

(4) Develop standards for the approval of entities providing supported living services.

(5) Recommend social and habilitation programs to the Indiana health facilities council for ~~developmentally disabled~~ individuals **with a developmental disability** who reside in health facilities licensed under IC 16-28.

(6) Develop and update semiannually a report that identifies the numbers of ~~developmentally disabled~~ individuals **with a developmental disability** who live in health facilities licensed under IC 16-28. The Indiana health facilities council shall assist in developing and updating this report.

SECTION 148. IC 12-28-5-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 12. (a) The council may license only those supervised group living facilities that:

(1) meet the standards established under section 10 of this chapter; and

(2) are necessary to provide adequate services to ~~developmentally disabled~~ individuals **with a developmental disability** in that geographic area.

(b) A supervised group living facility described in subsection (c) may locate in only one (1) of the following counties:

(1) A county having a population of more than twenty-seven thousand (27,000) but less than twenty-seven thousand two hundred (27,200).

(2) A county having a population of more than one hundred seventy thousand (170,000) but less than one hundred eighty thousand (180,000).

(3) A county having a population of more than fifty thousand

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(50,000) but less than fifty-five thousand (55,000).

(c) Notwithstanding 431 IAC 1.1-3-7(c) and 431 IAC 1.1-3-7(d), the council shall license one (1) supervised group living facility that is located less than one thousand (1,000) feet from another supervised group living facility or a sheltered workshop under the following conditions:

(1) Both of the supervised group living facilities meet all standards for licensure as provided in section 10(3) of this chapter.

(2) Both of the supervised group living facilities are built on land that is owned by one (1) private entity.

(3) The community formed by the supervised group living facilities provides job opportunities for residents of the supervised group living facilities.

(d) The council may approve an entity to provide supported living services only if the entity meets the standards established under section 10 of this chapter.

SECTION 149. IC 12-28-5-16, AS AMENDED BY P.L.141-2006, SECTION 77, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 16. The division of disability and rehabilitative services is the primary state agency responsible for planning, developing, coordinating, and implementing the plan and program of supervised group living facilities and services, including developmental and vocational services, needed for ~~developmentally disabled~~ individuals **with a developmental disability** residing in those facilities. Other state agencies authorized by law or rule to carry out activities and control money that have a direct bearing upon the provision of supervised group living services shall enter into memoranda of understanding or contracts with the division of disability and rehabilitative services to ensure a coordinated utilization of resources and responsibilities.

SECTION 150. IC 12-29-2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. This chapter applies only to the funding of a program of services for ~~the mentally ill~~ **individuals with a mental illness** that is designated as a community mental health center by the division of mental health and addiction in the division's approval of the program.

SECTION 151. IC 12-29-2-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 13. (a) This section applies to Lake County.

(b) In addition to any other appropriation under this article, the county annually may fund each center serving the county from the

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county's general fund in an amount not exceeding the following:

(1) For 2004, the product of the amount determined under section 2(b)(1) of this chapter multiplied by seven hundred fifty-two thousandths (0.752).

(2) For 2005 and each year thereafter, the product of the amount determined under section 2(b)(2) of this chapter for that year multiplied by seven hundred fifty-two thousandths (0.752).

(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~~ **individuals with a mental illness** (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 mental health and addiction.

(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 mental health and addiction for a community mental health center.

SECTION 152. IC 12-29-3-6, AS AMENDED BY P.L.141-2006, SECTION 79, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. (a) As used in this section, "community mental retardation and other developmental disabilities center" means a community center that is:

(1) incorporated under IC 23-7-1.1 (before its repeal August 1, 1991) or IC 23-17;

(2) organized for the purpose of providing services for ~~mentally retarded~~ **individuals with mental retardation** and other individuals with a developmental disability;

(3) approved by the division of disability and rehabilitative services; and

(4) accredited for the services provided by one (1) of the following organizations:

(A) The Commission on Accreditation of Rehabilitation Facilities (CARF), or its successor.

(B) The Council on Quality and Leadership in Supports for People with Disabilities, or its successor.

(C) The Joint Commission on Accreditation of Healthcare Organizations (JCAHO), or its successor.

(D) The National Commission on Quality Assurance, or its successor.

(E) An independent national accreditation organization

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approved by the secretary.

(b) The county executive of a county may authorize the furnishing of financial assistance to a community mental retardation and other developmental disabilities center serving the county.

(c) Upon the request of the county executive, the county fiscal body may appropriate annually, from the general fund of the county, money to provide financial assistance in an amount not to exceed the amount that could be collected from the annual tax levy of sixty-seven hundredths of one cent ($0.0067) on each one hundred dollars ($100) of taxable property.

SECTION 153. IC 16-18-2-167 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 167. (a) "Health facility" means a building, a structure, an institution, or other place for the reception, accommodation, board, care, or treatment extending beyond a continuous twenty-four (24) hour period in a week of more than four (4) individuals who need or desire such services because of physical or mental illness, infirmity, or impairment.

(b) The term does not include the premises used for the reception, accommodation, board, care, or treatment in a household or family, for compensation, of a person related by blood to the head of the household or family (or to the spouse of the head of the household or family) within the degree of consanguinity of first cousins.

(c) The term does not include any of the following:

(1) Hotels, motels, or mobile homes when used as such.

(2) Hospitals or mental hospitals, except for that part of a hospital that provides long term care services and functions as a health facility, in which case that part of the hospital is licensed under IC 16-21-2, but in all other respects is subject to IC 16-28.

(3) Hospices that furnish inpatient care and are licensed under IC 16-25-3.

(4) Institutions operated by the federal government.

(5) Foster family homes or day care centers.

(6) Schools for ~~the~~ **individuals who are** deaf or blind.

(7) Day schools for ~~the retarded.~~ **individuals with mental retardation.**

(8) Day care centers.

(9) Children's homes and child placement agencies.

(10) Offices of practitioners of the healing arts.

(11) Any institution in which health care services and private duty nursing services are provided that is listed and certified by the Commission for Accreditation of Christian Science Nursing Organizations/Facilities, Inc.

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(12) Industrial clinics providing only emergency medical services or first aid for employees.

(13) A residential facility (as defined in IC 12-7-2-165).

(14) Maternity homes.

(15) Offices of Christian Science practitioners.

SECTION 154. IC 16-18-2-179 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 179. (a) "Hospital", except as provided in subsections (b) through (f), means a hospital that is licensed under IC 16-21-2.

(b) "Hospital", for purposes of IC 16-21, means an institution, a place, a building, or an agency that holds out to the general public that it is operated for hospital purposes and that it provides care, accommodations, facilities, and equipment, in connection with the services of a physician, to individuals who may need medical or surgical services. The term does not include the following:

(1) Freestanding health facilities.

(2) Hospitals or institutions specifically intended to diagnose, care, and treat the following:

(A) ~~Mentally ill~~ Individuals **with a mental illness** (as defined in ~~IC 12-7-2-131).~~ **IC 12-7-2-117.6).**

(B) Individuals with developmental disabilities (as defined in IC 12-7-2-61).

(3) Offices of physicians where patients are not regularly kept as bed patients.

(4) Convalescent homes, boarding homes, or homes for the aged.

(c) "Hospital", for purposes of IC 16-22-8, has the meaning set forth in IC 16-22-8-5.

(d) "Hospital" or "tuberculosis hospital", for purposes of IC 16-24, means an institution or a facility for the treatment of individuals with tuberculosis.

(e) "Hospital", for purposes of IC 16-34, means a hospital (as defined in subsection (b)) that:

(1) is required to be licensed under IC 16-21-2; or

(2) is operated by an agency of the United States.

(f) "Hospital", for purposes of IC 16-41-12, has the meaning set forth in IC 16-41-12-6.

SECTION 155. IC 16-32-3-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. It is the policy of this state to encourage and enable ~~the~~ **individuals who are** blind, ~~the visually disabled,~~ **individuals with a visual disability,** and ~~the otherwise physically disabled~~ **other individuals with a physical disability** to participate fully in the social and economic life of the state

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and to engage in remunerative employment.

SECTION 156. IC 16-32-3-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) As used in this section, "public accommodation" means an establishment that caters or offers services, facilities, or goods to the general public.

(b) A **person who:**

(1) **is** totally or partially blind; ~~person;~~

(2) **is** hearing impaired; ~~person;~~ or

(3) ~~physically disabled person;~~ **has a physical disability;**

is entitled to be accompanied by a guide dog, especially trained for the purpose, in any public accommodation without being required to pay an extra charge for the guide dog. However, the person is liable for any damage done to the accommodation by the dog.

(c) A person who:

(1) refuses access to a public accommodation; or

(2) charges a fee for access to a public accommodation;

to a **person who is** totally or partially blind, ~~person, a hearing impaired person~~ **who has a hearing impairment,** or ~~a physically disabled person~~ **who has a physical disability** because that person is accompanied by a guide dog commits a Class C infraction.

(d) A guide dog trainer, while engaged in the training process of a guide dog, is entitled to access to any public accommodation granted by this section.

SECTION 157. IC 16-32-3-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. Each year the governor shall take suitable public notice of October 15 as "White Cane Safety Day". The governor shall issue a proclamation in which the governor does the following:

(1) Comments upon the significance of the white cane.

(2) Calls upon the citizens of Indiana to observe the provisions of the white cane law and to take precautions necessary to the safety of ~~the disabled.~~ **individuals with a disability.**

(3) Reminds the citizens of Indiana of the policies with respect to ~~the disabled~~ **individuals with a disability** and urges the citizens to cooperate in giving effect to the policies.

(4) Emphasizes the need of the citizens to do the following:

(A) Be aware of the presence of ~~disabled persons~~ **individuals with a disability** in the community.

(B) Keep safe and functional for ~~the disabled~~ **individuals with a disability** the streets, highways, sidewalks, walkways, public buildings, public facilities, other public places, places of public accommodation, amusement, and resort, and other

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places to which the public is invited.

(C) Offer assistance to ~~disabled persons~~ **individuals with a disability** upon appropriate occasions.

SECTION 158. IC 16-32-3-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. It is the policy of this state that ~~the blind, the visually disabled,~~ **individuals who are blind, individuals with a visual disability,** and ~~the otherwise physically disabled~~ **other individuals with a physical disability** shall be employed in:

(1) the state service;

(2) the service of the political subdivisions of the state;

(3) the public schools; and

(4) all other employment supported in whole or in part by public funds;

on the same terms and conditions as the able-bodied, unless it is shown that the particular disability prevents the performance of the work involved.

SECTION 159. IC 16-35-2-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. (a) An individual who: ~~is:~~

(1) ~~autistic~~ **has autism** (as defined ~~by IC 12-7-2-20);~~ **in IC 12-7-2-19(b));** and

(2) **is** less than twenty-one (21) years of age;

has an eligible medical condition under this chapter.

(b) The state department shall extend all care, services, and materials provided under this chapter to an individual described in subsection (a) who meets any additional eligibility criteria established by the state department under this chapter.

SECTION 160. IC 16-40-1-2, AS AMENDED BY P.L.141-2006, SECTION 92, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) Except as provided in subsection (b), each:

(1) physician;

(2) superintendent of a hospital;

(3) director of a local health department;

(4) director of a county office of family and children;

(5) director of the division of disability and rehabilitative services;

(6) superintendent of a state institution serving ~~the handicapped,~~ **individuals with a disability;** or

(7) superintendent of a school corporation;

who diagnoses, treats, provides, or cares for a person with a disability

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shall report the disabling condition to the state department within sixty (60) days.

(b) Each:

(1) physician holding an unlimited license to practice medicine; or

(2) optometrist licensed under IC 25-24-1;

shall file a report regarding a ~~blind or visually impaired~~ person **who is blind or has a visual impairment** with the office of the secretary of family and social services in accordance with IC 12-12-9.

SECTION 161. IC 20-18-2-9, AS ADDED BY P.L.1-2005, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. "Individualized education program" means a written statement developed for a child by a group that includes:

(1) a representative of the school corporation or public agency responsible for educating the child;

(2) the child's teacher;

(3) the child's parent, guardian, or custodian;

(4) if appropriate, the child; and

(5) if the provision of services for a ~~seriously emotionally disabled~~ child **with a serious emotional disability** is considered, a mental health professional provided by:

(A) the community mental health center (as described in IC 12-29); or

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

serving the community in which the child resides;

and that describes the special education to be provided to the child.

SECTION 162. IC 20-21-2-3, AS ADDED BY P.L.1-2005, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. The school shall provide the following:

(1) Educational facilities that meet standards established by the state board for regular public schools.

(2) Educational facilities for school age individuals.

(3) Educational programs and services to meet those special needs imposed by visual impairment so that a ~~visually disabled~~ student **with a visual disability** (including a student with multiple disabilities with visual impairment) may achieve the student's maximum ability for independence in academic pursuits, career opportunities, travel, personal care, and home management.

(4) Training to permit a ~~visually disabled~~ student **with a visual disability** (including a student with multiple disabilities with visual impairment) to achieve the student's maximum development toward self-support and independence by the

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provision of services in counseling, orientation and mobility, and other related services.

SECTION 163. IC 20-21-2-6, AS ADDED BY P.L.218-2005, SECTION 55, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. Subject to:

(1) the determination by case conference committees based on individualized education programs; and

(2) the school's admissions criteria adopted by the board under IC 20-21-3-10(a)(4);

the executive shall receive as students in the school Indiana residents who are ~~visually disabled~~ school age individuals **with a visual disability.**

SECTION 164. IC 20-21-3-10, AS ADDED BY P.L.218-2005, SECTION 59, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. (a) The board shall do the following:

(1) Establish policies and accountability measures for the school.

(2) Implement this article.

(3) Perform the duties required by IC 5-22-4-8.

(4) Adopt rules under IC 4-22-2 to establish criteria for the admission of ~~visually disabled~~ children **with a visual disability,** including children with multiple disabilities, at the school.

(5) Hire the executive, who serves at the pleasure of the board.

(6) Determine the salary and benefits of the executive.

(7) Adopt rules under IC 4-22-2 required by this article.

(b) The board shall submit the school's biennial budget to the department, which shall review the proposed budget. As part of its review, the department may request and shall receive from the board, in a form as may reasonably be required by the department, all information used by the board to develop the proposed budget. If, upon review, the department determines that any part of the budget request is not supported by the information provided, the department shall meet with the board at the earliest date possible in order to reconcile the budget request. The department shall submit the reconciled budget to the budget agency and the budget committee.

SECTION 165. IC 20-22-2-3, AS ADDED BY P.L.1-2005, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. The school shall provide the following:

(1) Educational facilities that meet standards established by the state board for regular public schools.

(2) Educational facilities for school age individuals.

(3) Educational programs and services to meet those special needs imposed by hearing impairment so that a ~~hearing disabled~~ student

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with a hearing disability (including a student with multiple disabilities with hearing impairment) may achieve the student's maximum ability for independence in academic pursuits, career opportunities, travel, personal care, and home management.

(4) Training to permit a ~~hearing disabled~~ student **with a hearing disability** (including a student with multiple disabilities with hearing impairment) to achieve the student's maximum development toward self-support and independence.

SECTION 166. IC 20-22-2-6, AS ADDED BY P.L.218-2005, SECTION 64, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. Subject to:

(1) the determination by case conference committees based on individualized education programs; and

(2) the school's admissions criteria adopted by the board under IC 20-22-3-10(a)(4);

the executive shall receive as students in the school Indiana residents who are ~~hearing disabled~~ school age individuals **with a hearing disability.**

SECTION 167. IC 20-22-3-10, AS ADDED BY P.L.218-2005, SECTION 67, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. (a) The board shall do the following:

(1) Establish policies and accountability measures for the school.

(2) Implement this article.

(3) Perform the duties required by IC 5-22-4-8.

(4) Adopt rules under IC 4-22-2 to establish criteria for the admission of ~~hearing disabled~~ children **with a hearing disability,** including children with multiple disabilities, at the school.

(5) Hire the executive, who serves at the pleasure of the board.

(6) Determine the salary and benefits of the executive.

(7) Adopt rules under IC 4-22-2 required by this article.

(b) The board shall submit the school's biennial budget to the department, which shall review the proposed budget. As part of its review, the department may request and shall receive from the board, in a form as may reasonably be required by the department, all information used by the board to develop the proposed budget. If, upon review, the department determines that any part of the budget request is not supported by the information provided, the department shall meet with the board at the earliest date possible in order to reconcile the budget request. The department shall submit the reconciled budget to the budget agency and the budget committee.

SECTION 168. IC 20-26-11-8, AS AMENDED BY P.L.141-2006, SECTION 94, AND AS AMENDED BY P.L.145-2006, SECTION

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148, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. (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,*~~ *department of child services;*

(2) by a court order; or

(3) by a child placing agency licensed by the ~~*division of family and children,*~~ *department of child services;*

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 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 emotional health and well-being and, if the placement is in a health care facility, is recommended by a physician; and

(2) the placement is projected to be for not less than fourteen (14) consecutive calendar days or a total of twenty (20) calendar days.

The school corporation in which the student has legal settlement shall pay the transfer tuition of the student. The parent 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. Not 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. The acceptance or notice of appeal by the school corporation must 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~~ **having a disability** under IC 20-35, the state board shall make a determination on transfer tuition according to the procedures in section 15 of this chapter. In the case of a student who has been identified as ~~disabled~~ **having a disability** under IC 20-35, the determination on transfer tuition shall be made under this subsection and the procedures adopted by the state board under IC 20-35-2-1(b)(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 mental health and

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addiction; 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 mental health and addiction;

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.

(d) A student:

(1) who is placed in a facility, home, or institution described in subsection (a), (b), or (c); and

(2) for whom there is no other entity or person required to pay transfer tuition;

may attend school in the school corporation in which the facility, home, or institution is located. The department shall conduct an investigation and determine whether any other entity or person is required to pay transfer tuition. If the department determines that no other entity or person is required to pay transfer tuition, the state shall pay the transfer tuition for the student out of the funds appropriated for tuition support.

SECTION 169. IC 20-26-11-11, AS ADDED BY P.L.246-2005, SECTION 131, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11. (a) A school corporation may enter into an agreement with:

(1) a nonprofit corporation that operates a federally approved education program; or

(2) a nonprofit corporation that:

(A) is exempt from federal income taxation under Section 501(c)(3) of the Internal Revenue Code;

(B) for its classroom instruction, employs teachers who are certified by the department;

(C) employs other professionally and state licensed staff as appropriate; and

(D) educates children who:

(i) have been suspended, expelled, or excluded from a public school in that school corporation and have been found to ~~be emotionally disturbed,~~ **have an emotional disturbance;**

(ii) have been placed with the nonprofit corporation by court order;

(iii) have been referred by a local health department; or

(iv) have been placed in a state licensed private or public

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health care or child care facility as described in section 8(b) of this chapter;

in order to provide a student with an individualized education program that is the most suitable educational program available.

(b) If a school corporation that is a transferee corporation enters into an agreement as described in subsection (a), the school corporation shall pay to the nonprofit corporation an amount agreed upon from the transfer tuition of the student. The amount agreed upon may not exceed the transfer tuition costs that otherwise would be payable to the transferee corporation.

(c) If a school corporation that is a transferor corporation enters into an agreement as described in subsection (a), the school corporation shall pay to the nonprofit corporation an amount agreed upon, which may not exceed the transfer tuition costs that otherwise would be payable to a transferee school corporation.

SECTION 170. IC 20-27-9-1, AS ADDED BY P.L.1-2005, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) This section does not apply to the use of school buses owned and operated by:

(1) a nonpublic school; or

(2) a nonprofit agency with primary responsibility for the habilitation or rehabilitation of ~~developmentally or physically disabled~~ individuals **with a developmental or physical disability.**

(b) Except as provided under sections 2 through 15 of this chapter, a person may not operate or permit the operation of a school bus on a highway in Indiana for a private purpose or a purpose other than transportation of eligible students to and from school.

SECTION 171. IC 20-27-9-5, AS AMENDED BY P.L.191-2006, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) A special purpose bus may be used:

(1) by a school corporation to provide regular transportation of a student between one (1) school and another school but not between the student's residence and the school;

(2) to transport students and their supervisors, including coaches, managers, and sponsors to athletic or other extracurricular school activities and field trips;

(3) by a school corporation to provide transportation between an individual's residence and the school for an individual enrolled in a special program for the habilitation or rehabilitation of ~~developmentally disabled or physically disabled~~ persons **with a developmental or physical disability;** and

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(4) to transport homeless students under IC 20-27-12.

(b) The mileage limitation of section 3 of this chapter does not apply to special purpose buses.

(c) The operator of a special purpose bus must be at least twenty-one (21) years of age, be authorized by the school corporation, and meet the following requirements:

(1) If the special purpose bus has a capacity of less than sixteen (16) passengers, the operator must hold a valid operator's, chauffeur's, or public passenger chauffeur's license.

(2) If the special purpose bus has a capacity of more than fifteen (15) passengers, the operator must meet the requirements for a school bus driver set out in IC 20-27-8.

(d) A special purpose bus is not required to be constructed, equipped, or painted as specified for school buses under this article or by the rules of the committee.

(e) An owner or operator of a special purpose bus, other than a special purpose bus owned or operated by a school corporation or a nonpublic school, is subject to IC 8-2.1.

SECTION 172. IC 20-27-9-7, AS AMENDED BY P.L.2-2006, SECTION 136, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. (a) As used in this section, ~~"developmentally disabled person" means a person who has a~~ "developmental disability" ~~(as defined in IC 12-7-2-61).~~ **has the meaning set forth in IC 12-7-2-61.**

(b) A special education cooperative operating under IC 36-1-7, IC 20-35-5, or IC 20-26-10 or a school corporation may enter into an agreement with a state supported agency serving ~~developmentally disabled~~ persons **with a developmental disability** in which a school bus or special purpose bus used by the special education cooperative or school corporation may be used to transport ~~developmentally disabled~~ persons **with a developmental disability** who:

(1) are at least two (2) years of age; and

(2) live within the boundaries of the special education cooperative or school corporation;

to and from programs for ~~the developmentally disabled.~~ **persons with a developmental disability.**

(c) An increased cost of transportation for ~~developmentally disabled~~ persons **with a developmental disability** shall be borne by the persons transported or the state supported agency serving ~~the developmentally disabled.~~ **persons with a developmental disability.** However, a ~~developmentally disabled~~ person **with a developmental disability** may not be required to pay for transportation provided under this section if

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the required payment is contrary to law.

SECTION 173. IC 20-27-9-11, AS ADDED BY P.L.1-2005, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11. (a) As used in this section, "day care center" means an institution operated primarily for the purpose of providing:

(1) care;

(2) maintenance; or

(3) supervision and instruction;

to children who are less than six (6) years of age and are separated from their parent for more than four (4) hours but less than twenty-four (24) hours a day for at least ten (10) consecutive workdays.

(b) A:

(1) day care center; or

(2) nonprofit agency with primary responsibility for the habilitation or rehabilitation of ~~developmentally disabled or physically disabled~~ persons **with a developmental or physical disability;**

may own, operate, lease, or contract for a school bus that meets the color, equipment, and other requirements of the committee.

(c) The school bus must be used only for the purpose of transporting:

(1) persons in the care of the day care center or agency; and

(2) supervisors of those persons;

to and from educational, social, recreational, or occupational functions.

(d) If an entity described in subsection (b) acquires:

(1) a school bus; or

(2) the use of a school bus;

authorized under subsection (b), each driver of the school bus authorized by the entity must comply with the requirements imposed upon persons transporting students under IC 20-27-8 in order to be certified by the department as a school bus driver.

SECTION 174. IC 20-27-9-12, AS ADDED BY P.L.1-2005, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 12. (a) As used in this section, "child care center" means a nonresidential building where at least one (1) child receives child care from a provider licensed under IC 12-17.2-4:

(1) while unattended by a parent;

(2) for regular compensation; and

(3) for more than four (4) hours but less than twenty-four (24) hours in each of ten (10) consecutive days per year, excluding intervening Saturdays, Sundays, and holidays.

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(b) This subsection does not apply to a ~~developmentally disabled or physically disabled~~ person **with a developmental or physical disability** who is provided transportation by a school corporation by means of a special purpose bus as provided in section 5(a)(3) of this chapter. An individual or entity who transports children in the care of a:

(1) preschool operated by a school corporation;
(2) public elementary school; or
(3) public secondary school;

on a public highway (as defined in IC 9-25-2-4) within or outside Indiana shall transport the children only in a school bus. However, a special purpose bus may be used for transportation of the children to activities other than regular transportation between the residences of the children and the school.

(c) An individual or entity that transports children in the care of a child care center on a public highway (as defined in IC 9-25-2-4) within or outside Indiana in a vehicle designed and constructed for the accommodation of more than ten (10) passengers shall transport the children only in a school bus or special purpose bus.

(d) The operator of a:

(1) school bus that transports children as required under subsection (b) or (c) must meet the requirements of IC 20-27-8; and
(2) special purpose bus that transports children as required under subsection (b) or (c) must meet the requirements of section 5(c) of this chapter.

(e) This section does not prohibit the use of a public transportation system for the transportation of children if the motor carriage used is designed to carry at least twenty (20) passengers.

(f) This section does not prohibit a:

(1) preschool operated by a school corporation;
(2) public elementary school;
(3) public secondary school; or
(4) child care center;

from contracting with a common carrier for incidental charter bus service for nonregular transportation if the carrier and the carrier's motor coach comply with the Federal Motor Carrier Safety Regulations as prescribed by the United States Department of Transportation Federal Highway Administration.

(g) Notwithstanding section 17 of this chapter, a person who violates this section commits a Class B infraction.

SECTION 175. IC 20-28-1-11, AS AMENDED BY P.L.157-2006,

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SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11. "School psychology" means the following:

(1) Administering, scoring, and interpreting educational, cognitive, career, vocational, behavioral, and affective tests and procedures that address a student's:

(A) education;

(B) developmental status;

(C) attention skills; and

(D) social, emotional, and behavioral functioning;

as they relate to the student's learning or training in the academic or vocational environment.

(2) Providing consultation, collaboration, and intervention services (not including psychotherapy) and providing referral to community resources to:

(A) students;

(B) parents of students;

(C) teachers;

(D) school administrators; and

(E) school staff;

concerning learning and performance in the educational process.

(3) Participating in or conducting research relating to a student's learning and performance in the educational process:

(A) regarding the educational, developmental, career, vocational, or attention functioning of the student; or

(B) screening social, affective, and behavioral functioning of the student.

(4) Providing inservice or continuing education services relating to learning and performance in the educational process to schools, parents, or others.

(5) Supervising school psychology services.

(6) Referring a student to:

(A) a speech-language pathologist or an audiologist licensed under IC 25-35.6 for services for speech, hearing and language disorders; or

(B) an occupational therapist certified under IC 25-23.5 for occupational therapy services;

by a school psychologist who is employed by a school corporation and who is defined as a practitioner of the healing arts for the purpose of referrals under 42 CFR 440.110.

The term does not include the diagnosis or treatment of mental and nervous disorders, except for conditions and interventions provided for in state and federal mandates affecting special education and

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vocational evaluations as the evaluations relate to the assessment of handicapping conditions and special education decisions or as the evaluations pertain to the placement of children and ~~developmentally disabled~~ **the placement of** adults **with a developmental disability.**

SECTION 176. IC 20-30-6-15, AS ADDED BY P.L.1-2005, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 15. (a) A school corporation may offer classes in American Sign Language as a first or second language for ~~hearing, deaf, and hard of hearing~~ students **who hear, students who are deaf, and students who are hard of hearing.**

(b) If:

(1) classes in American Sign Language are offered at the secondary level by a school corporation; and

(2) a student satisfactorily completes a class in American Sign Language as a second language;

the student is entitled to receive foreign language credit for the class.

(c) A class in American Sign Language offered under this section must be taught by a teacher licensed in Indiana and:

(1) certified by the American Sign Language Teachers Association; or

(2) holding a degree in American Sign Language.

(d) The state board shall establish a curriculum in American Sign Language as a first or second language.

SECTION 177. IC 20-32-7-1, AS ADDED BY P.L.1-2005, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. A decision requiring a student who is a child with a disability (as defined in IC 20-35-1-2) to undergo a student diagnostic assessment under this chapter or be retained at a particular grade level shall be made in accordance with the ~~disabled~~ student's individualized education program and federal law.

SECTION 178. IC 20-35-1-5, AS ADDED BY P.L.1-2005, SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. "Preschool child with a disability" refers to a ~~disabled~~ child **with a disability** who is at least three (3) years of age by June 1 of the school year.

SECTION 179. IC 20-35-4-1, AS ADDED BY P.L.1-2005, SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) A school corporation acting individually or in a joint school services program with other corporations may establish and maintain instructional facilities for the instruction of children with disabilities.

(b) A school corporation may provide transfer and transportation of

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children with disabilities residing in the geographical limits of the corporation to facilities for the instruction of children with disabilities that are not maintained by the school corporation.

(c) A school corporation acting individually or in a joint school services program with other corporations may convert, build, or lease the necessary school buildings or use existing buildings to establish and maintain classes of one (1) or more pupils who are:

(1) residents of Indiana; and

(2) children with disabilities.

(d) A school corporation may provide for instruction of any child with a disability who is not able to attend a special class or school for children with disabilities. Special personnel may be employed in connection with these classes of schools, and any expenditures for these classes of schools are lawful expenditures for maintaining the education of children with disabilities.

(e) All nurses, therapists, doctors, psychologists, and related specialists employed under this chapter:

(1) must be registered and authorized to practice under Indiana law; and

(2) are subject to any additional requirements of the division.

(f) A school corporation acting individually or in a joint school services program with other corporations may purchase special equipment needed in a class or school for children with disabilities, and any expenditures made for this special equipment are lawful expenditures for maintaining the education of children with disabilities.

(g) Children with disabilities shall receive credit for schoolwork accomplished on the same basis as ~~normal~~ children **without disabilities** who do similar work.

(h) A school corporation constructing or operating a school under this chapter:

(1) shall pay the operating expense for each student attending; and

(2) is entitled to receive state aid for these students under the applicable laws.

Other school corporations sending children with disabilities as students of the school shall pay tuition in accordance with IC 20-35-8-1 through IC 20-35-8-2.

(i) If the state receives funds from the federal government to aid in the operation of any school for children with disabilities, the division shall distribute among these schools the grant of federal funds that are appropriated. The federal funds shall be expended for the purposes for which the funds are granted.

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(j) Except as provided in section 9 of this chapter with regard to preschool children with disabilities, schools or classes for children with disabilities shall be operated by the school corporation establishing the schools or classes under:

(1) Indiana laws applying to the operation of public schools; and

(2) the supervision of the division.

(k) Teachers in classes and schools for children with disabilities:

(1) shall be appointed in the same manner as other public school teachers; and

(2) must possess:

(A) the usual qualifications required of teachers in the public schools; and

(B) any special training that the state board requires.

(l) The state board shall adopt rules under IC 4-22-2 governing the qualifications required of preschool teachers under contractual agreements entered into under section 9 of this chapter.

(m) Qualifications of paraprofessional personnel to be employed under this chapter are subject to a determination by the department. Before any type of special class organized or to be organized under this chapter is established in any school corporation or through any contractual agreement, the special class must be submitted to and approved by the state board.

(n) The state board shall adopt rules under IC 4-22-2 necessary for the proper administration of this chapter.

SECTION 180. IC 20-35-9-6, AS ADDED BY P.L.1-2005, SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. (a) Each blind student shall undergo a literacy assessment under rules adopted under IC 4-22-2 by the state board to determine the student's present level of performance in reading and writing.

(b) The literacy assessment required by subsection (a) shall be administered by a certified teacher of ~~the visually handicapped~~ **individuals with a visual disability** using criteria established by the state board.

SECTION 181. IC 20-35-9-7, AS ADDED BY P.L.1-2005, SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. If it is determined that braille instruction and use is appropriate for a ~~blind~~ student **who is blind,** the student shall be provided instruction by certified teachers of ~~the visually handicapped~~ **individuals with a visual disability** in the frequency and intensity specified in the student's individualized education program.

SECTION 182. IC 22-2-2-4 IS AMENDED TO READ AS

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FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) Every employer employing four (4) or more employees during a work week shall:

(1) in any work week beginning on or after July 1, 1968, in which he is subject to the provisions of this chapter, pay each of his employees wages of not less than one dollar and twenty-five cents ($1.25) per hour;

(2) in any work week beginning on or after July 1, 1977, in which he is subject to this chapter, pay each of his employees wages of not less than one dollar and fifty cents ($1.50) per hour;

(3) in any work week beginning on or after January 1, 1978, in which he is subject to this chapter, pay each of his employees wages of not less than one dollar and seventy-five cents ($1.75) per hour; and

(4) in any work week beginning on or after January 1, 1979, in which he is subject to this chapter, pay each of his employees wages of not less than two dollars ($2) per hour.

(b) Except as provided in subsection (c), every employer employing at least two (2) employees during a work week shall, in any work week in which the employer is subject to this chapter, pay each of the employees in any work week beginning on and after July 1, 1990, and before October 1, 1998, wages of not less than three dollars and thirty-five cents ($3.35) per hour.

(c) An employer subject to subsection (b) is permitted to apply a "tip credit" in determining the amount of cash wage paid to tipped employees. In determining the wage an employer is required to pay a tipped employee, the amount paid the employee by the employee's employer shall be an amount equal to:

(1) the cash wage paid the employee which for purposes of the determination shall be not less than the cash wage required to be paid to employees covered under the federal Fair Labor Standards Act of 1938, as amended (29 U.S.C. 203(m)(1)) on August 20, 1996, which amount is two dollars and thirteen cents ($2.13) an hour; and

(2) an additional amount on account of the tips received by the employee, which amount is equal to the difference between the wage specified in subdivision (1) and the wage in effect under subsections (b), (f), and (g).

An employer is responsible for supporting the amount of tip credit taken through reported tips by the employees.

(d) No employer having employees subject to any provisions of this section shall discriminate, within any establishment in which

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employees are employed, between employees on the basis of sex by paying to employees in such establishment a rate less than the rate at which he pays wages to employees of the opposite sex in such establishment for equal work on jobs the performance of which requires equal skill, effort, and responsibility, and which are performed under similar working conditions, except where such payment is made pursuant to:

(1) a seniority system;

(2) a merit system;

(3) a system which measures earnings by quantity or quality of production; or

(4) a differential based on any other factor other than sex.

(e) An employer who is paying a wage rate differential in violation of subsection (d) shall not, in order to comply with subsection (d), reduce the wage rate of any employee, and no labor organization, or its agents, representing employees of an employer having employees subject to subsection (d) shall cause or attempt to cause such an employer to discriminate against an employee in violation of subsection (d).

(f) Except as provided in subsection (c), every employer employing at least two (2) employees during a work week shall, in any work week in which the employer is subject to this chapter, pay each of the employees in any work week beginning on or after October 1, 1998, and before March 1, 1999, wages of not less than four dollars and twenty-five cents ($4.25) per hour.

(g) Except as provided in subsections (c) and (i), every employer employing at least two (2) employees during a work week shall, in any work week in which the employer is subject to this chapter, pay each of the employees in any work week beginning on or after March 1, 1999, wages of not less than five dollars and fifteen cents ($5.15) an hour.

(h) This section does not apply if an employee:

(1) provides companionship services to the aged and infirm (as defined in 29 CFR 552.6); and

(2) is employed by an employer or agency other than the family or household using the companionship services, as provided in 29 CFR 552.109 (a).

(i) This subsection applies only to an employee who has not attained the age of twenty (20) years. Instead of the rates prescribed by subsections (c), (f), and (g), an employer may pay an employee of the employer, during the first ninety (90) consecutive calendar days after the employee is initially employed by the employer, a wage which is

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not less than four dollars and twenty-five cents ($4.25) per hour, effective March 1, 1999. However, no employer may take any action to displace employees (including partial displacements such as reduction in hours, wages, or employment benefits) for purposes of hiring individuals at the wage authorized in this subsection.

(j) Except as otherwise provided in this section, no employer shall employ any employee for a workweek longer than forty (40) hours unless the employee receives compensation for employment in excess of the hours above specified at a rate not less than one and one-half (1.5) times the regular rate at which he is employed.

(k) For purposes of this section the following apply:

(1) "Overtime compensation" means the compensation required by subsection (j).

(2) "Compensatory time" and "compensatory time off" mean hours during which an employee is not working, which are not counted as hours worked during the applicable workweek or other work period for purposes of overtime compensation, and for which the employee is compensated at the employee's regular rate.

(3) "Regular rate" means the rate at which an employee is employed is considered to include all remuneration for employment paid to, or on behalf of, the employee, but is not considered to include the following:

(A) Sums paid as gifts, payments in the nature of gifts made at Christmas time or on other special occasions, as a reward for service, the amounts of which are not measured by or dependent on hours worked, production, or efficiency.

(B) Payments made for occasional periods when no work is performed due to vacation, holiday, illness, failure of the employer to provide sufficient work, or other similar cause, reasonable payments for traveling expenses, or other expenses, incurred by an employee in the furtherance of his employer's interests and properly reimbursable by the employer, and other similar payments to an employee which are not made as compensation for his hours of employment.

(C) Sums paid in recognition of services performed during a given period if:

(i) both the fact that payment is to be made and the amount of the payment are determined at the sole discretion of the employer at or near the end of the period and not pursuant to any prior contract, agreement, or promise causing the employee to expect the payments regularly;

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(ii) the payments are made pursuant to a bona fide profit sharing plan or trust or bona fide thrift or savings plan, meeting the requirements of the administrator set forth in appropriately issued regulations, having due regard among other relevant factors, to the extent to which the amounts paid to the employee are determined without regard to hours of work, production, or efficiency; or

(iii) the payments are talent fees paid to performers, including announcers, on radio and television programs.

(D) Contributions irrevocably made by an employer to a trustee or third person pursuant to a bona fide plan for providing old age, retirement, life, accident, or health insurance or similar benefits for employees.

(E) Extra compensation provided by a premium rate paid for certain hours worked by the employee in any day or workweek because those hours are hours worked in excess of eight (8) in a day or in excess of the maximum workweek applicable to the employee under subsection (j) or in excess of the employee's normal working hours or regular working hours, as the case may be.

(F) Extra compensation provided by a premium rate paid for work by the employee on Saturdays, Sundays, holidays, or regular days of rest, or on the sixth or seventh day of the workweek, where the premium rate is not less than one and one-half (1.5) times the rate established in good faith for like work performed in nonovertime hours on other days.

(G) Extra compensation provided by a premium rate paid to the employee, in pursuance of an applicable employment contract or collective bargaining agreement, for work outside of the hours established in good faith by the contract or agreement as the basic, normal, or regular workday (not exceeding eight hours) or workweek (not exceeding the maximum workweek applicable to the employee under subsection (j)) where the premium rate is not less than one and one-half (1.5) times the rate established in good faith by the contract or agreement for like work performed during the workday or workweek.

(l) No employer shall be considered to have violated subsection (j) by employing any employee for a workweek in excess of that specified in subsection (j) without paying the compensation for overtime employment prescribed therein if the employee is so employed:

(1) in pursuance of an agreement, made as a result of collective

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bargaining by representatives of employees certified as bona fide by the National Labor Relations Board, which provides that no employee shall be employed more than one thousand forty (1,040) hours during any period of twenty-six (26) consecutive weeks; or (2) in pursuance of an agreement, made as a result of collective bargaining by representatives of employees certified as bona fide by the National Labor Relations Board, which provides that during a specified period of fifty-two (52) consecutive weeks the employee shall be employed not more than two thousand two hundred forty (2,240) hours and shall be guaranteed not less than one thousand eight hundred forty (1,840) hours (or not less than forty-six (46) weeks at the normal number of hours worked per week, but not less than thirty (30) hours per week) and not more than two thousand eighty (2,080) hours of employment for which the employee shall receive compensation for all hours guaranteed or worked at rates not less than those applicable under the agreement to the work performed and for all hours in excess of the guaranty which are also in excess of the maximum workweek applicable to the employee under subsection (j) or two thousand eighty (2,080) in that period at rates not less than one and one-half (1.5) times the regular rate at which the employee is employed.

(m) No employer shall be considered to have violated subsection (j) by employing any employee for a workweek in excess of the maximum workweek applicable to the employee under subsection (j) if the employee is employed pursuant to a bona fide individual contract, or pursuant to an agreement made as a result of collective bargaining by representatives of employees, if the duties of the employee necessitate irregular hours of work, and the contract or agreement includes the following:

(1) Specifies a regular rate of pay of not less than the minimum hourly rate provided in subsections (c), (f), (g), and (i) (whichever is applicable) and compensation at not less than one and one-half (1.5) times that rate for all hours worked in excess of the maximum workweek.

(2) Provides a weekly guaranty of pay for not more than sixty hours based on the rates so specified.

(n) No employer shall be considered to have violated subsection (j) by employing any employee for a workweek in excess of the maximum workweek applicable to the employee under that subsection if, pursuant to an agreement or understanding arrived at between the employer and the employee before performance of the work, the amount paid to the

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employee for the number of hours worked by him in the workweek in excess of the maximum workweek applicable to the employee under that subsection:

(1) in the case of an employee employed at piece rates, is computed at piece rates not less than one and one-half (1.5) times the bona fide piece rates; applicable to the same work when performed during nonovertime hours;

(2) in the case of an employee performing two (2) or more kinds of work for which different hourly or piece rates have been established, is computed at rates not less than one and one-half (1.5) times those bona fide rates; applicable to the same work when performed during nonovertime hours; or

(3) is computed at a rate not less than one and one-half (1.5) times the rate established by the agreement or understanding as the basic rate to be used in computing overtime compensation thereunder, provided that the rate so established shall be substantially equivalent to the average hourly earnings of the employee, exclusive of overtime premiums, in the particular work over a representative period of time;

and if the employee's average hourly earnings for the workweek exclusive of payments described in this section are not less than the minimum hourly rate required by applicable law, and extra overtime compensation is properly computed and paid on other forms of additional pay required to be included in computing the regular rate.

(o) Extra compensation paid as described in this section shall be creditable toward overtime compensation payable pursuant to this section.

(p) No employer shall be considered to have violated subsection (j) by employing any employee of a retail or service establishment for a workweek in excess of the applicable workweek specified therein, if:

(1) the regular rate of pay of the employee is in excess of one and one-half (1.5) times the minimum hourly rate applicable to the employee under section 2 of this chapter; and

(2) more than half of the employee's compensation for a representative period (not less than one (1) month) represents commissions on goods or services.

In determining the proportion of compensation representing commissions, all earnings resulting from the application of a bona fide commission rate shall be considered commissions on goods or services without regard to whether the computed commissions exceed the draw or guarantee.

(q) No employer engaged in the operation of a hospital or an

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establishment which is an institution primarily engaged in the care of the sick, the aged, or ~~the mentally ill or defective~~ **individuals with a mental illness or defect** who reside on the premises shall be considered to have violated subsection (j) if, pursuant to an agreement or understanding arrived at between the employer and the employee before performance of the work, a work period of fourteen (14) consecutive days is accepted in lieu of the workweek of seven (7) consecutive days for purposes of overtime computation and if, for his employment in excess of eight (8) hours in any workday and in excess of eighty (80) hours in that fourteen (14) day period, the employee receives compensation at a rate not less than one and one-half (1.5) times the regular rate at which the employee is employed.

(r) No employer shall employ any employee in domestic service in one (1) or more households for a workweek longer than forty (40) hours unless the employee receives compensation for that employment in accordance with subsection (j).

(s) In the case of an employee of an employer engaged in the business of operating a street, suburban or interurban electric railway, or local trolley or motorbus carrier (regardless of whether or not the railway or carrier is public or private or operated for profit or not for profit), in determining the hours of employment of such an employee to which the rate prescribed by subsection (j) applies there shall be excluded the hours the employee was employed in charter activities by the employer if both of the following apply:

(1) The employee's employment in the charter activities was pursuant to an agreement or understanding with the employer arrived at before engaging in that employment.

(2) If employment in the charter activities is not part of the employee's regular employment.

(t) Any employer may employ any employee for a period or periods of not more than ten (10) hours in the aggregate in any workweek in excess of the maximum workweek specified in subsection (j) without paying the compensation for overtime employment prescribed in subsection (j), if during that period or periods the employee is receiving remedial education that:

(1) is provided to employees who lack a high school diploma or educational attainment at the eighth grade level;

(2) is designed to provide reading and other basic skills at an eighth grade level or below; and

(3) does not include job specific training.

(u) Subsection (j) does not apply to an employee of a motion picture theater.

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(v) Subsection (j) does not apply to an employee of a seasonal amusement or recreational establishment, an organized camp, or a religious or nonprofit educational conference center that is exempt under the federal Fair Labor Standards Act of 1938, as amended (29 U.S.C. 213).

SECTION 183. IC 22-3-7-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 20. (a) After disablement and during the period of claimed resulting disability or impairment, the employee, if so requested by the employee's employer or ordered by the worker's compensation board, shall submit to an examination at reasonable times and places by a duly qualified physician or surgeon designated and paid by the employer or by order of the board. The employee shall have the right to have present at any such examination any duly qualified physician or surgeon provided and paid for by the employee. No fact communicated to or otherwise learned by any physician or surgeon who may have attended or examined the employee, or who may have been present at any examination, shall be privileged either in the hearings provided for in this chapter, or in any action at law brought to recover damages against any employer who is subject to the compensation provisions of this chapter. If the employee refuses to submit to, or in any way obstructs the examinations, the employee's right to compensation and right to take or prosecute any proceedings under this chapter shall be suspended until the refusal or obstruction ceases. No compensation shall at any time be payable for the period of suspension unless in the opinion of the board, the circumstances justified the refusal or obstruction. The employee must be served with a notice setting forth the consequences of the refusal under this subsection. The notice must be in a form prescribed by the worker's compensation board.

(b) Any employer requesting an examination of any employee residing within Indiana shall pay, in advance of the time fixed for the examination, sufficient money to defray the necessary expenses of travel by the most convenient means to and from the place of examination, and the cost of meals and lodging necessary during the travel. If the method of travel is by automobile, the mileage rate to be paid by the employer shall be the rate as is then currently being paid by the state to its employees under the state travel policies and procedures established by the department of administration and approved by the state budget agency. If the examination or travel to or from the place of examination causes any loss of working time on the part of the employee, the employer shall reimburse the employee for the loss of wages upon the basis of such employee's average daily wage.

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(c) When any employee injured in Indiana moves outside Indiana, the travel expense and the cost of meals and lodging necessary during the travel, payable under this section, shall be paid from the point in Indiana nearest to the employee's then residence to the place of examination. No travel and other expense shall be paid for any travel and other expense required outside Indiana.

(d) A duly qualified physician or surgeon provided and paid for by the employee may be present at an examination, if the employee so desires. In all cases, where the examination is made by a physician or surgeon engaged by the employer and the ~~disabled or injured~~ employee **who has a disability or is injured** has no physician or surgeon present at the examination, it shall be the duty of the physician or surgeon making the examination to deliver to the injured employee, or the employee's representative, a statement in writing of the conditions evidenced by such examination. The statement shall disclose all facts that are reported by the physician or surgeon to the employer. This statement shall be furnished to the employee or the employee's representative as soon as practicable, but not later than thirty (30) days before the time the case is set for hearing. The statement may be submitted by either party as evidence by that physician or surgeon at a hearing before the worker's compensation board if the statement meets the requirements of subsection (f). If the physician or surgeon fails or refuses to furnish the employee or the employee's representative with such statement thirty (30) days before the hearing, then the statement may not be submitted as evidence, and the physician shall not be permitted to testify before the worker's compensation board as to any facts learned in the examination. All of the requirements of this subsection apply to all subsequent examinations requested by the employer.

(e) In all cases where an examination of an employee is made by a physician or surgeon engaged by the employee, and the employer has no physician or surgeon present at such examination, it shall be the duty of the physician or surgeon making the examination to deliver to the employer or the employer's representative a statement in writing of the conditions evidenced by such examination. The statement shall disclose all the facts that are reported by such physician or surgeon to the employee. The statement shall be furnished to the employer or the employer's representative as soon as practicable, but not later than thirty (30) days before the time the case is set for hearing. The statement may be submitted by either party as evidence by that physician or surgeon at a hearing before the worker's compensation board if the statement meets the requirements of subsection (f). If the

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physician or surgeon fails or refuses to furnish the employer or the employer's representative with such statement thirty (30) days before the hearing, then the statement may not be submitted as evidence, and the physician or surgeon shall not be permitted to testify before the worker's compensation board as to any facts learned in such examination. All of the requirements of this subsection apply to all subsequent examinations made by a physician or surgeon engaged by the employee.

(f) All statements of physicians or surgeons required by this section, whether those engaged by employee or employer, shall contain the following information:

(1) The history of the injury, or claimed injury, as given by the patient.

(2) The diagnosis of the physician or surgeon concerning the patient's physical or mental condition.

(3) The opinion of the physician or surgeon concerning the causal relationship, if any, between the injury and the patient's physical or mental condition, including the physician's or surgeon's reasons for the opinion.

(4) The opinion of the physician or surgeon concerning whether the injury or claimed injury resulted in a disability or impairment and, if so, the opinion of the physician or surgeon concerning the extent of the disability or impairment and the reasons for the opinion.

(5) The original signature of the physician or surgeon.

Notwithstanding any hearsay objection, the worker's compensation board shall admit into evidence a statement that meets the requirements of this subsection unless the statement is ruled inadmissible on other grounds.

(g) Delivery of any statement required by this section may be made to the attorney or agent of the employer or employee and such an action shall be construed as delivery to the employer or employee.

(h) Any party may object to a statement on the basis that the statement does not meet the requirements of subsection (e). The objecting party must give written notice to the party providing the statement and specify the basis for the objection. Notice of the objection must be given no later than twenty (20) days before the hearing. Failure to object as provided in this subsection precludes any further objection as to the adequacy of the statement under subsection (f).

(i) The employer upon proper application, or the worker's compensation board, shall have the right in any case of death to require

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an autopsy at the expense of the party requesting the same. If, after a hearing, the board orders an autopsy and the autopsy is refused by the surviving spouse or next of kin, in this event any claim for compensation on account of the death shall be suspended and abated during the refusal. The surviving spouse or dependent must be served with a notice setting forth the consequences of the refusal under this subsection. The notice must be in a form prescribed by the worker's compensation board. No autopsy, except one performed by or on the authority or order of the coroner in discharge of the coroner's duties, shall be held in any case by any person without notice first being given to the surviving spouse or next of kin, if they reside in Indiana or their whereabouts can reasonably be ascertained, of the time and place thereof, and reasonable time and opportunity shall be given such surviving spouse or next of kin to have a representative or representatives present to witness same. However, if such notice is not given, all evidence obtained by the autopsy shall be suspended on motion duly made to the board.

SECTION 184. IC 22-3-7-32 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 32. (a) No proceedings for compensation under this chapter shall be maintained unless notice has been given to the employer of disablement arising from an occupational disease as soon as practicable after the date of disablement. No defect or inaccuracy of such notices shall be a bar to compensation unless the employer proves that he is unduly prejudiced in such proceedings by such defect or inaccuracy.

(b) The notice provided for in subsection (a) shall state the name and address of the employee and the nature and cause of the occupational disease and disablement or death therefrom, and shall be signed by the ~~disabled~~ employee **with a disability** or by someone in ~~his~~ **the employee's** behalf, or by one (1) or more of the dependents, in case of death, or by some person in their behalf. Such notice may be served personally upon the employer or upon any foreman, superintendent, or manager of the employer to whose orders the ~~disabled~~ **employee with a disability** or deceased employee was required to conform or upon any agent of the employer upon whom a summons in a civil action may be served under the laws of the state or may be sent to the employer by registered letter, addressed to ~~his~~ **the employer's** last known residence or place of business.

(c) No proceedings by an employee for compensation under this chapter shall be maintained unless claim for compensation shall be filed by the employee with the worker's compensation board within two (2) years after the date of the disablement.

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(d) No proceedings by dependents of a deceased employee for compensation for death under this chapter shall be maintained unless claim for compensation shall be filed by the dependents with the worker's compensation board within two (2) years after the date of death.

(e) No limitation of time provided in this chapter shall run against any person who is mentally incompetent or a minor dependent, so long as ~~he~~ **the person** has no guardian or trustee.

SECTION 185. IC 22-3-7-36 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 36. (a) Whenever disablement or death from an occupational disease arising out of and in the course of the employment for which compensation is payable under this chapter, shall have been sustained under circumstances creating in some other person than the employer and not in the same employ a legal liability to pay damages in respect thereto, the injured employee, or the employee's dependents, in case of death, may commence legal proceedings against such other person to recover damages notwithstanding such employer's or such employer's occupational disease insurance carrier's payment of, or liability to pay, compensation under this chapter. In such case, however, if the action against such other person is brought by the injured employee or the employee's dependents and judgment is obtained and paid and accepted and settlement is made with such other person, either with or without suit, then from the amount received by such employee or dependents there shall be paid to the employer, or such employer's occupational disease insurance carrier, the amount of compensation paid to such employee or dependents, plus the medical, hospital, and nurses' services and supplies and burial expense paid by the employer or such employer's occupational disease insurance carrier, and the liability of the employer or such employer's occupational disease insurance carrier to pay further compensation or other expenses shall thereupon terminate, whether or not one (1) or all of the dependents are entitled to share in the proceeds of the settlement or recovery and whether or not one (1) or all of the dependents could have maintained the action or claim for wrongful death.

(b) In the event such employee or the employee's dependents, not having received compensation or medical, surgical, hospital, or nurse's services and supplies or death benefits, or such employer's occupational disease insurance carrier, shall procure a judgment against such other party for disablement or death from an occupational disease arising out of and in the course of the employment, which judgment is paid, or if settlement is made with such other person, either with or without suit,

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then the employer or such employer's occupational disease insurance carrier shall have no liability for payment of compensation or for payment of medical, surgical, hospital, or nurse's services and supplies or death benefits whatsoever, whether or not one (1) or all of the dependents are entitled to share in the proceeds of settlement or recovery and whether or not one (1) or all of the dependents could have maintained the action or claim for wrongful death.

(c) In the event an employee, or in the event of the employee's death, the employee's dependents, shall procure a final judgment against such other person other than by agreement, for disablement or death from an occupational disease arising out of and in the course of the employment and such judgment is for a lesser sum than the amount for which the employer or such employer's occupational disease insurance carrier is liable for compensation and for medical, surgical, hospital, and nurse's services and supplies, as of the date the judgment becomes final, then the employee, or in the event of the employee's death, the employee's dependents, shall have the option of either collecting such judgment and repaying the employer or such employer's occupational disease insurance carrier for compensation previously drawn, if any, and repaying the employer or such employer's occupational disease insurance carrier for medical, surgical, hospital, and nurse's services and supplies previously paid, if any, and of repaying the employer or such employer's occupational disease insurance carrier, the burial benefits paid, if any, or of assigning all rights under said judgment to the employer or such employer's occupational disease insurance carrier and thereafter receiving all compensation and medical, surgical, hospital, and nurse's services and supplies to which the employee, or in the event of the employee's death, to which the employee's dependents would be entitled if there had been no action brought against such other party.

(d) If the employee or the employee's dependents agree to receive compensation, because of an occupational disease arising out of and in the course of the employment, from the employer or such employer's occupational disease insurance carrier, or to accept from the employer or such employer's occupational disease insurance carrier by loan or otherwise, any payment on account of such compensation or institute proceedings to recover the same, the said employer or such employer's occupational disease insurance carrier shall have a lien upon any settlement award, judgment, or fund out of which such employee might be compensated from the third party.

(e) The employee, or in the event of the employee's death, the employee's dependents, shall institute legal proceedings against such

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other person for damages within two (2) years after said cause of action accrues. If, after said proceeding is commenced, the same is dismissed, the employer or such employer's occupational disease insurance carrier, having paid compensation or having become liable therefor, may collect in their own name or in the name of the ~~disabled~~ employee **with a disability,** or in the case of death, in the name of the employee's dependents, from the other person in whom legal liability for damages exists, the compensation paid or payable to the ~~disabled~~ employee **with a disability,** or the employee's dependents, plus such medical, surgical, hospital, and nurse's services and supplies and burial expense paid by the employer or such employer's occupational disease insurance carrier for which they have become liable. The employer or such employer's occupational disease insurance carrier may commence such action at law for such collection against the other person in whom legal liability for damages exists, not later than one (1) year from the date said action so commenced, has been dismissed, notwithstanding the provisions of any statute of limitations to the contrary.

(f) If said employee, or in the event of the employee's death, the employee's dependents, shall fail to institute legal proceedings, against such other person for damages within two (2) years after said cause of action accrues, the employer or such employer's occupational disease insurance carrier, having paid compensation or having been liable therefor, may collect in their own name or in the name of the ~~disabled~~ employee **with a disability,** or in the case of the employee's death, in the name of the employee's dependents, from the other person in whom legal liability for damage exists, the compensation paid or payable to the ~~disabled~~ employee **with a disability** or to the employee's dependents, plus the medical, surgical, hospital, and nurse's services and supplies and burial expenses, paid by them or for which they have become liable, and the employer or such employer's occupational disease insurance carrier may commence such action at law for such collection against such other person in whom legal liability exists at any time within one (1) year from the date of the expiration of the two (2) years when ~~said~~ **the** action accrued to ~~said disabled~~ **the** employee **with a disability** or, in the event of the employee's death, to the employee's dependents, notwithstanding the provisions of any statute of limitations to the contrary.

(g) In such actions brought as provided in this section by the employee or the employee's dependents, the employee or the employee's dependents shall, within thirty (30) days after such action is filed, notify the employer or such employer's occupational disease insurance carrier, by personal service or registered or certified mail, of

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such fact and the name of the court in which suit is brought, filing proof thereof in such action.

(h) If the employer does not join in the action within ninety (90) days after receipt of the notice, then out of any actual money reimbursement received by the employer or such employer's occupational disease insurance carrier pursuant to this section, they shall pay their pro rata share of all costs and reasonably necessary expenses in connection with such third party claim, action, or suit, and to the attorney at law selected by the employee or the employee's dependents, a fee of twenty-five percent (25%), if collected without trial, of the amount of benefits after the expenses and costs in connection with such third party claim have been deducted therefrom, and a fee of thirty-three and one-third percent (33 1/3%), if collected after trial, of the amount of such benefits after deduction of the costs and reasonably necessary expenses in connection with such third party claim, action, or suit. The employer may, within ninety (90) days after receipt of notice of suit from the employee or the employee's dependents, join in the action upon the employee's motion so that all orders of court after hearing and judgment shall be made for the employee's protection.

(i) No release or settlement of claim for damages by reason of such injury or death, and no satisfaction of judgment in such proceedings shall be valid without the written consent of both employer or such employer's occupational disease insurance carrier, and employee, or the employee's dependents. However, in the case of the employer or such employer's occupational disease insurance carrier, such consent shall not be required where the employer or such employer's occupational disease insurance carrier has been fully indemnified or protected by court order.

SECTION 186. IC 22-4-2-37 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 37. For the purposes of IC 22-4-8-2(j)(3)(C), "school" means an educational institution that is accredited and approved by the Indiana state board of education and is an academic school system, whereby a student may progressively advance, starting with the first grade through the twelfth grade. This includes all accredited public and parochial schools which are primary, secondary, or preparatory schools. "School" does not include:

(1) a kindergarten, not a part of the public or parochial school system;

(2) a day care center;

(3) an organization furnishing psychiatric care and treatment;

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(4) an organization furnishing training or rehabilitation for ~~the mentally retarded or the physically disabled,~~ **individuals with mental retardation or a physical disability,** which organization is not a part of the public or parochial school system; or

(5) an organization offering preschool training, not a part of the public or parochial school system.

SECTION 187. IC 22-9-5-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. (a) As used in this chapter, "disability" means with respect to an individual:

(1) a physical or mental impairment that substantially limits at least one (1) of the major life activities of the individual;

(2) a record of an impairment described in subdivision (1); or

(3) being regarded as having an impairment described in subdivision (1).

(b) As used in this subsection, "illegal use of drugs" means the use of drugs the possession or distribution of which is unlawful under the Controlled Substances Act. The term does not include the use of a drug taken under the supervision of a licensed health care professional or another use authorized by the Controlled Substances Act (21 U.S.C. 812) or other provisions of federal law. For purposes of this chapter, an individual shall not be considered ~~disabled~~ **an individual with a disability** solely because the individual is currently engaging in the illegal use of drugs. However, this subsection does not exclude as an individual with a disability an individual who:

(1) has successfully completed a supervised drug rehabilitation program and is no longer engaging in the illegal use of drugs or has otherwise been rehabilitated successfully and is no longer engaging in the illegal use of drugs;

(2) is participating in a supervised rehabilitation program and is no longer engaging in the illegal use of drugs; or

(3) is erroneously regarded as engaging in the illegal use of drugs but is not engaging in the illegal use of drugs.

It is not a violation of this chapter for a person or other entity covered by this chapter to adopt or administer reasonable policies or procedures, including but not limited to drug testing, designed to ensure that an individual described in subdivision (1) or (2) is no longer engaging in the illegal use of drugs. Nothing in this section shall be construed to encourage, prohibit, restrict, or authorize testing for the illegal use of drugs.

(c) Notwithstanding subsection (b), an individual shall not be denied health services or services provided in connection with drug rehabilitation on the basis of the current illegal use of drugs if the

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individual is otherwise entitled to those services.

(d) For purposes of this chapter, an individual shall not be considered ~~disabled~~ **an individual with a disability** solely on the basis of the following:

(1) Homosexuality.

(2) Bisexuality.

(3) Transvestism, transsexualism, pedophilia, exhibitionism, voyeurism, gender identity disorders not resulting from physical impairments, or other sexual behavior disorders.

(4) Compulsive gambling, kleptomania, or pyromania.

(5) Psychoactive substance use disorders resulting from current illegal use of drugs (as defined in section ~~14~~ **12** of this chapter).

SECTION 188. IC 22-9-6-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) As used in this chapter, and unless otherwise indicated by the context, "person with a disability" means an individual who, by reason of physical or mental defect or infirmity, whether congenital or acquired by accident, injury, or disease, is or may subsequently be totally or partially prevented from achieving the fullest attainable physical, social, economic, mental, and vocational participation in the normal process of living.

(b) "Persons with disabilities" ~~include blind~~ **includes** persons ~~visually disabled~~ **who are blind,** persons **who have a visual disability,** and other ~~physically disabled~~ persons **with a physical disability.**

SECTION 189. IC 22-9-6-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. This chapter does not require a person renting, leasing, or providing for compensation real property to modify the person's property in any way to provide a higher degree of care for a person with a disability than for a person ~~who is not disabled.~~ **without a disability.**

SECTION 190. IC 22-10-11-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (A) Every underground mine shall have at least two (2) separate surface openings except as provided for in subsections (E) and (F) of this section.

(B) The distance between shafts at any mine opened after March 8, 1955, shall be not less than one hundred fifty (150) feet, and the distance between drift or slope openings at such mines shall be not less than fifty (50) feet.

(C) New shafts and partitions therein, made after March 8, 1955, shall be fireproof; however, buntons and guides may be of wood.

(D) Mine openings shall have adequate protection against surface fires, fumes, smoke, and water from floods entering the mine.

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(E) Not more than twenty (20) persons shall be allowed at any one time in any mine until a connection has been made between the two (2) mine openings, and such work shall be prosecuted with reasonable diligence.

(F) When only one (1) main opening is available, owing to final mining of pillars, not more than twenty (20) persons shall be allowed in such mine at any one time; however, the distance between the mine openings and workings shall not exceed five hundred (500) feet.

(G) Except as provided in subsection (F), at least two (2) separate and distinct travelable passageways, to be designated as escapeways, shall be maintained to insure passage at all times for any person, including ~~disabled~~ persons **with a disability,** from each working section continuous to the surface escape drift opening, or continuous to the escape shaft or slope facilities to the surface, as appropriate, and shall be maintained in safe condition and properly marked. At least one (1) of the escapeways shall be ventilated with intake air.

Mine openings shall be adequately protected to prevent the entrance into the underground area of the mine of surface fires, fumes, smoke, and floodwater. Escape facilities approved by the director or ~~his~~ **the director's** authorized representative, properly maintained and frequently tested, shall be present at or in each escape shaft or slope to allow all persons, including ~~disabled~~ persons **with a disability,** to escape quickly to the surface in the event of an emergency.

(H) The director shall be guided by the following criteria for approving escapeways and escape facilities. Escapeways and escape facilities that do not meet these criteria may be approved providing the operator can satisfy the director that such escapeways and facilities will enable miners to escape quickly to the surface in the event of an emergency.

(1) Except in situations where the height of the coalbed is less than five (5) feet, escapeways should be maintained at a height of at least five (5) feet (excluding necessary roof support) and the travelway in such escapeway should be maintained at a width of at least six (6) feet. In those situations where the height of the coalbed is less than five (5) feet, the escapeway should be maintained to the height of the coalbed (excluding any necessary roof support) and the travelway in such escapeways should be maintained at a width of at least six (6) feet.

(2) Each escape shaft which is more than twenty (20) feet deep shall include elevators, hoists, cranes, or other such equipment which shall be equipped with cages and buckets. When such facilities are not automatically operated, an attendant shall be on

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duty during any coal-producing or maintenance shift. An "attendant", as used in this subsection, means a person who is located on the surface in a position where it is possible to hear or see a signal calling for the use of such facilities and who is readily available to operate such facilities or to readily obtain another person to operate such facilities.

(3) Stairways shall be installed in all escape shafts which are twenty (20) feet or less in depth; however, in shafts five (5) feet or less in depth, ladders may be substituted for stairways. Stairways and ladders shall be installed and maintained as follows:

(i) Stairways shall be of substantial construction, set on an angle not greater than forty-five degrees (45°) with the horizontal and equipped on the open side with suitable handrails. Where landing platforms are necessary, they shall be at least two (2) feet wide and four (4) feet long and properly railed.

(ii) Ladders shall be anchored securely, set on an angle of not more than sixty degrees (60 degrees) and be substantially constructed and maintained in good condition.

(I) In mines and working sections opened after August 31, 1979, all travelable passageways designated as escapeways in accordance with subsection (G) shall be located to follow, as approved by an authorized representative of the director, the safest direct practical route to the nearest mine opening suitable for the safe evacuation of miners. Escapeways from working sections may be located through existing entries, rooms, or crosscuts.

(J) In mines and working sections in existence before September 1, 1979, all travelable passageways designated as escapeways in accordance with subsection (G) shall, no later than March 1, 1980, be located to follow, as approved by an authorized representative of the director, the safest, direct practical route to the nearest mine opening suitable for the safe evacuation of miners. Escapeways from working sections may be located through existing entries, rooms, and crosscuts.

(K) All escapeways shall be examined in their entirety at least once each week by a certified person. Such weekly examination need not be made during any week in which the mine is idle for the entire week, except that such examination shall be made before any miner other than the certified person returns to the mine. The phrase "once each week" shall mean at intervals not exceeding seven (7) days.

(L) The certified person making such examination shall place his initials, the date, and time at various locations along the passageways and, if any hazardous conditions are found, such conditions shall be

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reported promptly to the operator. The results of the examinations shall be recorded in a book kept at the bathhouse and open to examination by all employees and interested persons relating to the examination of emergency escapeways. Any hazardous conditions observed shall be corrected immediately.

(M) A map of the mine, showing the main escape system, shall be posted at a location where all miners can acquaint themselves with the main escape system. A map, showing the designated escapeways from the working section to the main escape system, shall be posted in each working section, in order that the miners in the section can acquaint themselves with the designated escapeways from the section to the main escape systems. All maps shall be kept up to date, and changes in routes of travel, location of doors, or direction of airflow shall be promptly shown on the maps when the changes are made and shall be promptly brought to the attention of all miners.

(N) Good housekeeping shall be practiced underground.

SECTION 191. IC 27-7-6-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 12. (a) As used in this section, ~~"disabled~~ "person **with a disability"** means a person who is under a disability as defined by the federal Social Security Administration guidelines (42 U.S.C. 416).

(b) After June 30, 1990, an insurer may not cancel, fail to renew, or refuse to issue an automobile insurance policy to a ~~disabled~~ person **with a disability** who holds a valid driver's license solely because of the disability, nor may an insurer cancel, fail to renew, or refuse to issue an automobile insurance policy under conditions less favorable to ~~disabled~~ persons **with a disability** than ~~nondisabled~~ persons **without a disability.**

SECTION 192. IC 27-8-5-2, AS AMENDED BY P.L.125-2005, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) No individual policy of accident and sickness insurance shall be delivered or issued for delivery to any person in this state unless it complies with each of the following:

(1) The entire money and other considerations for the policy are expressed in the policy.

(2) The time at which the insurance takes effect and terminates is expressed in the policy.

(3) The policy purports to insure only one (1) person, except that a policy may insure, originally or by subsequent amendment, upon the application of any member of a family who shall be deemed the policyholder and who is at least eighteen (18) years of age, any two (2) or more eligible members of that family,

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including husband, wife, dependent children or any children under a specified age, which shall not exceed nineteen (19) years, and any other person dependent upon the policyholder.

(4) The style, arrangement, and overall appearance of the policy give no undue prominence to any portion of the text, and unless every printed portion of the text of the policy and of any endorsements or attached papers is plainly printed in lightface type of a style in general use, the size of which shall be uniform and not less than ten point with a lower-case unspaced alphabet length not less than one hundred and twenty point (the "text" shall include all printed matter except the name and address of the insurer, name or title of the policy, the brief description if any, and captions and subcaptions).

(5) The exceptions and reductions of indemnity are set forth in the policy and, except those which are set forth in section 3 of this chapter, are printed, at the insurer's option, either included with the benefit provision to which they apply, or under an appropriate caption such as "EXCEPTIONS", or "EXCEPTIONS AND REDUCTIONS", provided that if an exception or reduction specifically applies only to a particular benefit of the policy, a statement of such exception or reduction shall be included with the benefit provision to which it applies.

(6) Each such form of the policy, including riders and endorsements, shall be identified by a form number in the lower left-hand corner of the first page of the policy.

(7) The policy contains no provision purporting to make any portion of the charter, rules, constitution, or bylaws of the insurer a part of the policy unless such portion is set forth in full in the policy, except in the case of the incorporation of or reference to a statement of rates or classification of risks, or short-rate table filed with the commissioner.

(8) If an individual accident and sickness insurance policy or hospital service plan contract or medical service plan contract provides that hospital or medical expense coverage of a dependent child terminates upon attainment of the limiting age for dependent children specified in such policy or contract, the policy or contract must also provide that attainment of such limiting age does not operate to terminate the hospital and medical coverage of such child while the child is and continues to be both:

(A) incapable of self-sustaining employment by reason of mental retardation or mental or physical disability; and

(B) chiefly dependent upon the policyholder for support and

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maintenance.

Proof of such incapacity and dependency must be furnished to the insurer by the policyholder within thirty-one (31) days of the child's attainment of the limiting age. The insurer may require at reasonable intervals during the two (2) years following the child's attainment of the limiting age subsequent proof of the child's disability and dependency. After such two (2) year period, the insurer may require subsequent proof not more than once each year. The foregoing provision shall not require an insurer to insure a dependent who is a ~~mentally retarded or mentally or physically disabled~~ child **who has mental retardation or a mental or physical disability** where such dependent does not satisfy the conditions of the policy provisions as may be stated in the policy or contract required for coverage thereunder to take effect. In any such case the terms of the policy or contract shall apply with regard to the coverage or exclusion from coverage of such dependent. This subsection applies only to policies or contracts delivered or issued for delivery in this state more than one hundred twenty (120) days after August 18, 1969.

(b) If any policy is issued by an insurer domiciled in this state for delivery to a person residing in another state, and if the official having responsibility for the administration of the insurance laws of such other state shall have advised the commissioner that any such policy is not subject to approval or disapproval by such official, the commissioner may by ruling require that such policy meet the standards set forth in subsection (a) and in section 3 of this chapter.

(c) An insurer may issue a policy described in this section in electronic or paper form. However, the insurer shall:

(1) inform the insured that the insured may request the policy in paper form; and

(2) issue the policy in paper form upon the request of the insured.

SECTION 193. IC 27-8-5-19, AS AMENDED BY P.L.127-2006, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 19. (a) As used in this chapter, "late enrollee" has the meaning set forth in 26 U.S.C. 9801(b)(3).

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

(1) the provisions described in subsection (c); or

(2) provisions that, in the opinion of the commissioner, are:

(A) more favorable to the persons insured; or

(B) at least as favorable to the persons insured and more favorable to the policyholder;

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than the provisions set forth in subsection (c).

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

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

(2) A provision that the validity of the policy may not be contested, except for nonpayment of premiums, after the policy has been in force for two (2) years after its date of issue, and that no statement made by a person covered under the policy relating to the person's insurability may be used in contesting the validity of the insurance with respect to which the statement was made, unless:

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

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

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

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

(4) A provision setting forth the conditions, if any, under which the insurer reserves the right to require a person eligible for insurance to furnish evidence of individual insurability satisfactory to the insurer as a condition to part or all of the

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person's coverage.

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

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

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

(i) the end of a continuous period of twelve (12) months beginning on or after the enrollment date of the person's coverage; or

(ii) the end of a continuous period of eighteen (18) months beginning on the enrollment date of the person's coverage if the person is a late enrollee.

This subdivision applies only to group policies of accident and sickness insurance other than those described in section 2.5(a)(1) through 2.5(a)(8) and 2.5(b)(2) of this chapter.

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

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

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

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

(ii) The end of the two (2) year period beginning on the

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effective date of the person's coverage.

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

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

(A) premiums;

(B) benefits; or

(C) both premiums and benefits;

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

(8) A provision that the insurer will issue to the policyholder, for delivery to each person insured, a certificate, in electronic or paper form, setting forth a statement that:

(A) explains the insurance protection to which the person insured is entitled;

(B) indicates to whom the insurance benefits are payable; and

(C) explains any family member's or dependent's coverage under the policy.

The provision must specify that the certificate will be provided in paper form upon the request of the insured.

(9) A provision stating that written notice of a claim must be given to the insurer within twenty (20) days after the occurrence or commencement of any loss covered by the policy, but that a failure to give notice within the twenty (20) day period does not invalidate or reduce any claim if it can be shown that it was not reasonably possible to give notice within that period and that notice was given as soon as was reasonably possible.

(10) A provision stating that:

(A) the insurer will furnish to the person making a claim, or to the policyholder for delivery to the person making a claim, forms usually furnished by the insurer for filing proof of loss; and

(B) if the forms are not furnished within fifteen (15) days after the insurer received notice of a claim, the person making the claim will be deemed to have complied with the requirements of the policy as to proof of loss upon submitting, within the time fixed in the policy for filing proof of loss, written proof covering the occurrence, character, and extent of the loss for which the claim is made.

(11) A provision stating that:

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(A) in the case of a claim for loss of time for disability, written proof of the loss must be furnished to the insurer within ninety (90) days after the commencement of the period for which the insurer is liable, and that subsequent written proofs of the continuance of the disability must be furnished to the insurer at reasonable intervals as may be required by the insurer;

(B) in the case of a claim for any other loss, written proof of the loss must be furnished to the insurer within ninety (90) days after the date of the loss; and

(C) the failure to furnish proof within the time required under clause (A) or (B) does not invalidate or reduce any claim if it was not reasonably possible to furnish proof within that time, and if proof is furnished as soon as reasonably possible but (except in case of the absence of legal capacity of the claimant) no later than one (1) year from the time proof is otherwise required under the policy.

(12) A provision that:

(A) all benefits payable under the policy (other than benefits for loss of time) will be paid in accordance with IC 27-8-5.7; and

(B) subject to due proof of loss, all accrued benefits under the policy for loss of time will be paid not less frequently than monthly during the continuance of the period for which the insurer is liable, and any balance remaining unpaid at the termination of the period for which the insurer is liable will be paid as soon as possible after receipt of the proof of loss.

(13) A provision that benefits for loss of life of the person insured are payable to the beneficiary designated by the person insured. However, if the policy contains conditions pertaining to family status, the beneficiary may be the family member specified by the policy terms. In either case, payment of benefits for loss of life is subject to the provisions of the policy if no designated or specified beneficiary is living at the death of the person insured. All other benefits of the policy are payable to the person insured. The policy may also provide that if any benefit is payable to the estate of a person or to a person who is a minor or otherwise not competent to give a valid release, the insurer may pay the benefit, up to an amount of five thousand dollars ($5,000), to any relative by blood or connection by marriage of the person who is deemed by the insurer to be equitably entitled to the benefit.

(14) A provision that the insurer has the right and must be allowed the opportunity to:

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(A) examine the person of the individual for whom a claim is made under the policy when and as often as the insurer reasonably requires during the pendency of the claim; and

(B) conduct an autopsy in case of death if it is not prohibited by law.

(15) A provision that no action at law or in equity may be brought to recover on the policy less than sixty (60) days after proof of loss is filed in accordance with the requirements of the policy and that no action may be brought at all more than three (3) years after the expiration of the time within which proof of loss is required by the policy.

(16) In the case of a policy insuring debtors, a provision that the insurer will furnish to the policyholder, for delivery to each debtor insured under the policy, a certificate of insurance describing the coverage and specifying that the benefits payable will first be applied to reduce or extinguish the indebtedness.

(17) If the policy provides that hospital or medical expense coverage of a dependent child of a group member terminates upon the child's attainment of the limiting age for dependent children set forth in the policy, a provision that the child's attainment of the limiting age does not terminate the hospital and medical coverage of the child while the child is:

(A) incapable of self-sustaining employment because of mental retardation or mental or physical disability; and

(B) chiefly dependent upon the group member for support and maintenance.

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

(18) A provision that complies with the group portability and

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guaranteed renewability provisions of the federal Health Insurance Portability and Accountability Act of 1996 (P.L.104-191).

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

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

(f) An insurer that issues a policy described in this section shall include in the insurer's enrollment materials information concerning the manner in which an individual insured under the policy may:

(1) obtain a certificate described in subsection (c)(8); and

(2) request the certificate in paper form.

SECTION 194. IC 27-13-1-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 14. "Extension of benefits" means the continuation of coverage under a particular benefit provided under a contract following the termination of an enrollee ~~who is totally disabled~~ **with a total disability** on the date of termination.

SECTION 195. IC 30-4-6-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 12. ~~(Statute of Limitations)~~ Unless previously barred by adjudication, consent or limitation, any right against a trustee for breach of trust shall be barred as to any beneficiary who has received a final account or other statement fully disclosing the matter and showing termination of the trust relationship between the trustee and the beneficiary unless a proceeding to assert the right is commenced within three (3) years after receipt of the final account or statement if, being an adult, it is received by him personally or if, being a minor or ~~disabled~~ person **with a disability,** it is received by his personal representative. The rights thus barred do not include the rights to recover from a trustee for fraud, misrepresentation or inadequate disclosure related to the settlement of the trust.

SECTION 196. IC 31-34-19-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. If it appears to the juvenile court that a child ~~is mentally ill,~~ **has a mental illness,** the court may:

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(1) refer the matter to the court having probate jurisdiction for civil commitment proceedings under IC 12-26; or

(2) initiate a civil commitment proceeding under IC 12-26.

SECTION 197. IC 31-37-18-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. If it appears to the juvenile court that a child ~~is mentally ill,~~ **has a mental illness,** the court may:

(1) refer the matter to the court having probate jurisdiction for civil commitment proceedings under IC 12-26; or

(2) initiate a civil commitment proceeding under IC 12-26.

SECTION 198. IC 33-38-7-11, AS AMENDED BY P.L.28-2005, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11. (a) Benefits provided under this section are subject to IC 33-38-6-13 and section 16 of this chapter.

(b) A participant whose employment as judge is terminated, regardless of cause, is entitled to a retirement annuity beginning on the date specified by the participant in a written application, if the following conditions are met:

(1) The date the annuity begins is not:

(A) before the date of final termination of employment by the participant; or

(B) the date thirty (30) days before the receipt of the participant's written application by the board.

(2) The participant:

(A) is at least sixty-two (62) years of age and has at least eight (8) years of service credit;

(B) is at least fifty-five (55) years of age and the participant's age in years plus the participant's years of service is at least eighty-five (85); or

(C) has become permanently disabled.

(3) The participant is not receiving a salary from the state for services currently performed as:

(A) a judge (as defined in IC 33-38-6-7); or

(B) a magistrate under IC 33-23-5.

(c) A participant:

(1) who:

(A) elects to accept retirement after June 30, 1977; and

(B) is at least sixty-five (65) years of age; or

(2) who:

(A) elects to accept retirement after June 30, 1999;

(B) is at least fifty-five (55) years of age; and

(C) meets the requirements under subsection (b)(2)(B);

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is entitled to an annual retirement benefit as calculated in subsection (d).

(d) The annual retirement benefit for a participant who meets the requirements of subsection (c) equals the product of:

(1) the salary being paid for the office that the participant held at the time of the participant's separation from service; multiplied by

(2) the percentage prescribed in the following table:

TABLE A

Participant's Years of Service	Percentage
8	24%
9	27%
10	30%
11	33%
12	50%
13	51%
14	52%
15	53%
16	54%
17	55%
18	56%
19	57%
20	58%
21	59%
22 or more	60%

If a participant has a partial year of service in addition to at least eight (8) full years of service, an additional percentage shall be calculated by prorating between the applicable percentages, based on the number of months in the partial year of service. A participant who elects to accept retirement before July 1, 1977, is entitled to an annual retirement benefit that equals the average of the benefit computed under this subsection and the benefit the participant would have received under IC 33-38-6 as in effect on June 30, 1977.

(e) If the annual retirement benefit of a participant who began service as a judge before July 1, 1977, as computed under subsection (d), is less than the amount the participant would have received under IC 33-38-6 as in effect on June 30, 1977, the participant is entitled to receive the greater amount as the participant's annual retirement benefit instead of the benefit computed under subsection (d).

(f) Except as provided in subsections (b)(2)(B) and (d), if a participant who elects to accept retirement after June 30, 1977, has not attained sixty-five (65) years of age, the participant is entitled to

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receive a reduced annual retirement benefit that equals the benefit that would be payable if the participant were sixty-five (65) years of age reduced by one-tenth percent (0.1%) for each month that the participant's age at retirement precedes the participant's sixty-fifth birthday. This reduction does not apply to:

(1) participants who are separated from service because of permanent disability;

(2) survivors of participants who die while in service after August 1, 1992; or

(3) survivors of participants who die while not in service but while entitled to a future benefit.

(g) A participant who ~~is permanently disabled~~ **has a permanent disability** is entitled to an annual benefit equal to the product of:

(1) the salary being paid for the office that the participant held at the time of separation from service; multiplied by

(2) the percentage prescribed in the following table:

TABLE B

Participant's Years of Service	Percentage
0-12	50%
13	51%
14	52%
15	53%
16	54%
17	55%
18	56%
19	57%
20	58%
21	59%
22 or more	60%

If a participant has a partial year of service in addition to at least eight (8) full years of service, an additional percentage shall be calculated by prorating between the applicable percentages, based on the number of months in the partial year of service.

(h) The surviving spouse or surviving child or children, as designated by the participant, of a participant who has qualified before July 1, 1977, to receive the retirement annuity under the provisions of this chapter, either by length of service or by ~~being permanently disabled,~~ **having a permanent disability,** shall, upon the death of such participant, be entitled to an annuity in an amount equal to the greater of:

(1) the sum of:

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(A) two thousand dollars ($2,000); plus

(B) fifty percent (50%) of the amount of retirement annuity the participant was drawing at the time of the participant's death, or to that which the participant would have been entitled had the participant retired and begun receiving retirement annuity benefits prior to the participant's death; or

(2) the amount determined under the following table:

TABLE C

Year	Amount
July 1, 1995, to June 30, 1996	$10,000
July 1, 1996, to June 30, 1997	$11,000
July 1, 1997, and thereafter	$12,000

(i) If a participant who qualifies after June 30, 1977, and before July 1, 1983, to receive a retirement annuity under the provisions of this chapter, either by length of service or by ~~being permanently disabled,~~ **having a permanent disability,** dies, the participant's surviving spouse or surviving child or children, as designated by the participant, is or are entitled to an annuity in an amount equal to the greater of:

(1) fifty percent (50%) of the amount of retirement annuity the participant was drawing at the time of death, or to that which the participant would have been entitled had the participant retired and begun receiving retirement annuity benefits before death; or

(2) the amount determined under TABLE C in subsection (h)(2).

(j) If a participant:

(1) dies after June 30, 1983; and

(2) on the date of the participant's death:

(A) was receiving benefits under this chapter;

(B) had completed at least eight (8) years of service and was in service as a judge;

(C) ~~was permanently disabled;~~ **had a permanent disability;** or

(D) had completed at least eight (8) years of service, was not still in service as a judge, and was entitled to a future benefit;

the participant's surviving spouse or surviving child or children, as designated by the participant, is or are entitled, regardless of the participant's age, to an annuity in an amount equal to the greater of the amount determined under TABLE C in subsection (h)(2) or fifty percent (50%) of the amount of retirement annuity the participant was drawing at the time of death, or to that which the participant would

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have been entitled had the participant retired and begun receiving retirement annuity benefits on the participant's date of death, with reductions as necessary under subsection (f).

(k) Notwithstanding subsection (j), if a participant:

(1) died after June 30, 1983, and before July 1, 1985; and

(2) was serving as a judge at the time of death;

the surviving spouse is entitled to the same retirement annuity as the surviving spouse of a ~~permanently disabled~~ participant **with a permanent disability** entitled to benefits under subsection (i).

(l) The annuity payable to a surviving child or children under subsection (h), (i), or (j), is subject to the following:

(1) The total monthly benefit payable to a surviving child or children is equal to the same monthly annuity that was to have been payable to the surviving spouse.

(2) If there is more than one (1) child designated by the participant, then the children are entitled to share the annuity in equal monthly amounts.

(3) Each child entitled to an annuity shall receive that child's share until the child becomes eighteen (18) years of age or during the entire period of the child's physical or mental disability, whichever period is longer.

(4) Upon the cessation of payments to one (1) designated child, if there is at least one (1) other child then surviving and still entitled to payments, the remaining child or children shall share equally the annuity. If the surviving spouse of the participant is surviving upon the cessation of payments to all designated children, the surviving spouse will then receive the annuity for the remainder of the surviving spouse's life.

(5) The annuity shall be payable to the participant's surviving spouse if any of the following occur:

(A) No child named as a beneficiary by a participant survives the participant.

(B) No children designated by the participant are entitled to an annuity due to their age at the time of death of the participant.

(C) A designation is not made.

(6) An annuity payable to a surviving child or children may be paid to a trust or a custodian account under IC 30-2-8.5, established for the surviving child or children as designated by the participant.

SECTION 199. IC 33-38-7-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 12. (a) Benefits provided under this section are subject to IC 33-38-6-13.

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(b) A participant is considered ~~permanently disabled~~ **to have a permanent disability** if the board has received a written certificate by at least two (2) licensed and practicing physicians, appointed by the board, indicating that:

(1) the participant is totally incapacitated, by reason of physical or mental infirmities, from earning a livelihood; and

(2) the condition is likely to be permanent.

(c) The participant shall be reexamined by at least two (2) physicians appointed by the board at the times as the board designates but at intervals not to exceed one (1) year. If, in the opinion of these physicians, the participant has recovered from the participant's disability, then benefits cease to be payable as of the date of the examination unless, on that date, the participant is:

(1) at least sixty-five (65) years of age; or

(2) at least fifty-five (55) years of age and meets the requirements under section 11(b)(2)(B) of this chapter.

(d) To the extent required by the Americans with Disabilities Act, the transcripts, reports, records, and other material generated by the initial and periodic examinations and reviews to determine eligibility for disability benefits under this section shall be:

(1) kept in separate medical files for each member; and

(2) treated as confidential medical records.

SECTION 200. IC 33-38-8-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 15. (a) A participant is considered ~~permanently disabled~~ **to have a permanent disability** if the board has received a written certification by at least two (2) licensed and practicing physicians, appointed by the board, that:

(1) the participant is totally incapacitated, by reason of physical or mental infirmities, from earning a livelihood; and

(2) the condition is likely to be permanent.

(b) The participant shall be reexamined by at least two (2) physicians appointed by the board, at the times the board designates but at intervals not to exceed one (1) year. If, in the opinion of these physicians, the participant has recovered from the participant's disability, then benefits shall cease to be payable as of the date of the examination unless, on that date, the participant is at least:

(1) sixty-five (65) years of age; or

(2) fifty-five (55) years of age and meets the requirements under section 13(2)(B) of this chapter.

(c) To the extent required by the Americans with Disabilities Act, the transcripts, reports, records, and other material generated by the

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initial and periodic examinations and reviews to determine eligibility for disability benefits under this section shall be:

(1) kept in separate medical files for each member; and

(2) treated as confidential medical records.

SECTION 201. IC 33-38-8-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 17. (a) Benefits provided under this section are subject to IC 33-38-6-13 and section 20 of this chapter.

(b) The surviving spouse or child or children, as designated by the participant, of a participant who:

(1) dies; and

(2) on the date of death:

(A) was receiving benefits under this chapter;

(B) had completed at least eight (8) years of service and was in service as a judge;

(C) ~~was permanently disabled;~~ **had a permanent disability;** or

(D) had completed at least eight (8) years of service, was not still in service as a judge, and was entitled to a future benefit;

are entitled, regardless of the participant's ages, to the benefit prescribed by subsection (c).

(c) The surviving spouse or child or children, as designated under subsection (b), are entitled to a benefit equal to the greater of:

(1) fifty percent (50%) of the amount of the retirement benefit the participant was drawing at the time of death, or to which the participant would have been entitled had the participant retired and begun receiving retirement benefits on the date of death, with reductions as necessary under section 14(d) of this chapter; or

(2) the amount determined under the following table:

Year	Amount
July 1, 1995, to June 30, 1996	$10,000
July 1, 1996, to June 30, 1997	$11,000
July 1, 1997, and thereafter	$12,000

(d) The benefit payable to a surviving spouse or surviving child or children under subsection (c) is subject to the following:

(1) A surviving spouse is entitled to receive the benefit for life.

(2) The total monthly benefit payable to a surviving child or children is equal to the same monthly benefit that was to have been payable to the surviving spouse.

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(3) If there is more than one (1) child designated by the participant, then the children are entitled to share the benefit in equal monthly amounts.

(4) A child entitled to a benefit shall receive that child's share until the child becomes eighteen (18) years of age or during the entire period of the child's physical or mental disability, whichever period is longer.

(5) Upon the cessation of benefits to one (1) designated child, if there are one (1) or more other children then surviving and still entitled to benefits, the remaining children shall share equally the benefit. If the surviving spouse of the participant is surviving upon the cessation of benefits to all designated children, the surviving spouse shall then receive the benefit for the remainder of the spouse's life.

(6) The benefit shall be payable to the participant's surviving spouse if any of the following occur:

(A) No child or children named as a beneficiary by a participant survives the participant.

(B) No child or children designated by the participant is or are entitled to a benefit due to the age of the child or children at the time of death of the participant.

(C) A designation is not made.

(7) A benefit payable to a surviving child or children may be paid to a trust or a custodian account under IC 30-2-8.5, established for the surviving child or children as designated by the participant.

SECTION 202. IC 35-36-2-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: 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

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shall be further evaluated and then treated in such a manner as is psychiatrically indicated for the defendant's mental illness. Treatment may be provided by:

(1) the department of correction; or

(2) the division of mental health and addiction 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 **with mental retardation"** 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~~ **an** individual **with mental retardation,** the court shall sentence the defendant under IC 35-50-2-3(a).

SECTION 203. IC 35-36-9-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. As used in this chapter, ~~"mentally retarded~~ "individual **with mental retardation"** means an individual who, before becoming twenty-two (22) years of age, manifests:

(1) significantly subaverage intellectual functioning; and

(2) substantial impairment of adaptive behavior;

that is documented in a court ordered evaluative report.

SECTION 204. IC 35-36-9-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) The defendant may file a petition alleging that the defendant is ~~a mentally retarded~~ **an** individual **with mental retardation.**

(b) The petition must be filed not later than twenty (20) days before the omnibus date.

(c) Whenever the defendant files a petition under this section, the court shall order an evaluation of the defendant for the purpose of providing evidence of the following:

(1) Whether the defendant has a significantly subaverage level of intellectual functioning.

(2) Whether the defendant's adaptive behavior is substantially impaired.

(3) Whether the conditions described in subdivisions (1) and (2) existed before the defendant became twenty-two (22) years of age.

SECTION 205. IC 35-36-9-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) The court shall conduct a hearing on the petition under this chapter.

(b) At the hearing, the defendant must prove by clear and

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convincing evidence that the defendant is ~~a mentally retarded~~ **an** individual **with mental retardation.**

SECTION 206. IC 35-36-9-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. Not later than ten (10) days before the initial trial date, the court shall determine whether the defendant is ~~a mentally retarded~~ **an** individual **with mental retardation** based on the evidence set forth at the hearing under section 4 of this chapter. The court shall articulate findings supporting the court's determination under this section.

SECTION 207. IC 35-36-9-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. If the court determines that the defendant is ~~a mentally retarded~~ **an** individual **with mental retardation** under section 5 of this chapter, the part of the state's charging instrument filed under IC 35-50-2-9(a) that seeks a death sentence against the defendant shall be dismissed.

SECTION 208. IC 35-36-9-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. If a defendant who is determined to be ~~a mentally retarded~~ **an** individual **with mental retardation** under this chapter is convicted of murder, the court shall sentence the defendant under IC 35-50-2-3(a).

SECTION 209. IC 35-37-4-6, AS AMENDED BY P.L.173-2006, SECTION 48, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. (a) This section applies to a criminal action involving the following offenses where the victim is a protected person under subsection (c)(1) or (c)(2):

(1) Sex crimes (IC 35-42-4).
(2) Battery upon a child (IC 35-42-2-1(a)(2)(B)).
(3) Kidnapping and confinement (IC 35-42-3).
(4) Incest (IC 35-46-1-3).
(5) Neglect of a dependent (IC 35-46-1-4).
(6) Human and sexual trafficking crimes (IC 35-42-3.5).
(7) An attempt under IC 35-41-5-1 for an offense listed in subdivisions (1) through (6).

(b) This section applies to a criminal action involving the following offenses where the victim is a protected person under subsection (c)(3):

(1) Exploitation of a dependent or endangered adult (IC 35-46-1-12).
(2) A sex crime (IC 35-42-4).
(3) Battery (IC 35-42-2-1).
(4) Kidnapping, confinement, or interference with custody (IC 35-42-3).
(5) Home improvement fraud (IC 35-43-6).

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(6) Fraud (IC 35-43-5).
(7) Identity deception (IC 35-43-5-3.5).
(8) Theft (IC 35-43-4-2).
(9) Conversion (IC 35-43-4-3).
(10) Neglect of a dependent (IC 35-46-1-4).
(11) Human and sexual trafficking crimes (IC 35-42-3.5).

(c) As used in this section, "protected person" means:
(1) a child who is less than fourteen (14) years of age;
(2) ~~a mentally disabled~~ **an** individual **with a mental disability** who has a disability attributable to an impairment of general intellectual functioning or adaptive behavior that:
(A) is manifested before the individual is eighteen (18) years of age;
(B) is likely to continue indefinitely;
(C) constitutes a substantial impairment of the individual's ability to function normally in society; and
(D) reflects the individual's need for a combination and sequence of special, interdisciplinary, or generic care, treatment, or other services that are of lifelong or extended duration and are individually planned and coordinated; or
(3) an individual who is:
(A) at least eighteen (18) years of age; and
(B) incapable by reason of mental illness, mental retardation, dementia, or other physical or mental incapacity of:
(i) managing or directing the management of the individual's property; or
(ii) providing or directing the provision of self-care.

(d) A statement or videotape that:
(1) is made by a person who at the time of trial is a protected person;
(2) concerns an act that is a material element of an offense listed in subsection (a) or (b) that was allegedly committed against the person; and
(3) is not otherwise admissible in evidence;
is admissible in evidence in a criminal action for an offense listed in subsection (a) or (b) if the requirements of subsection (e) are met.

(e) A statement or videotape described in subsection (d) is admissible in evidence in a criminal action listed in subsection (a) or (b) if, after notice to the defendant of a hearing and of the defendant's right to be present, all of the following conditions are met:
(1) The court finds, in a hearing:
(A) conducted outside the presence of the jury; and

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(B) attended by the protected person;

that the time, content, and circumstances of the statement or videotape provide sufficient indications of reliability.

(2) The protected person:

(A) testifies at the trial; or

(B) is found by the court to be unavailable as a witness for one (1) of the following reasons:

(i) From the testimony of a psychiatrist, physician, or psychologist, and other evidence, if any, the court finds that the protected person's testifying in the physical presence of the defendant will cause the protected person to suffer serious emotional distress such that the protected person cannot reasonably communicate.

(ii) The protected person cannot participate in the trial for medical reasons.

(iii) The court has determined that the protected person is incapable of understanding the nature and obligation of an oath.

(f) If a protected person is unavailable to testify at the trial for a reason listed in subsection (e)(2)(B), a statement or videotape may be admitted in evidence under this section only if the protected person was available for cross-examination:

(1) at the hearing described in subsection (e)(1); or

(2) when the statement or videotape was made.

(g) A statement or videotape may not be admitted in evidence under this section unless the prosecuting attorney informs the defendant and the defendant's attorney at least ten (10) days before the trial of:

(1) the prosecuting attorney's intention to introduce the statement or videotape in evidence; and

(2) the content of the statement or videotape.

(h) If a statement or videotape is admitted in evidence under this section, the court shall instruct the jury that it is for the jury to determine the weight and credit to be given the statement or videotape and that, in making that determination, the jury shall consider the following:

(1) The mental and physical age of the person making the statement or videotape.

(2) The nature of the statement or videotape.

(3) The circumstances under which the statement or videotape was made.

(4) Other relevant factors.

(i) If a statement or videotape described in subsection (d) is

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admitted into evidence under this section, a defendant may introduce a:

(1) transcript; or

(2) videotape;

of the hearing held under subsection (e)(1) into evidence at trial.

SECTION 210. IC 35-37-6-2, AS AMENDED BY P.L.2-2005, SECTION 122, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. As used in this chapter, "covered act" means any of the following offenses or an act that, if committed by a person less than eighteen (18) years of age, would be any of the following offenses if committed by an adult:

(1) A sex crime under IC 35-42-4.

(2) A battery against:

(A) a child under IC 35-42-2-1(a)(2)(B);

(B) a ~~disabled~~ person **with a disability** under IC 35-42-2-1(a)(2)(C);

(C) an endangered adult under IC 35-42-2-1(a)(2)(E); or

(D) a spouse under IC 35-42-2-1.

(3) Neglect of a dependent under IC 35-46-1-4.

(4) Incest (IC 35-46-1-3).

SECTION 211. IC 35-42-2-1, AS AMENDED BY P.L.2-2005, SECTION 125, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) A person who knowingly or intentionally touches another person in a rude, insolent, or angry manner commits battery, a Class B misdemeanor. However, the offense is:

(1) a Class A misdemeanor if:

(A) it results in bodily injury to any other person;

(B) it is committed against a law enforcement officer or against a person summoned and directed by the officer while the officer is engaged in the execution of ~~his~~ **the officer's** official duty;

(C) it is committed against an employee of a penal facility or a juvenile detention facility (as defined in IC 31-9-2-71) while the employee is engaged in the execution of the employee's official duty;

(D) it is committed against a firefighter (as defined in IC 9-18-34-1) while the firefighter is engaged in the execution of the firefighter's official duty; or

(E) it is committed against a community policing volunteer:

(i) while the volunteer is performing the duties described in IC 35-41-1-4.7; or

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(ii) because the person is a community policing volunteer;

(2) a Class D felony if it results in bodily injury to:

(A) a law enforcement officer or a person summoned and directed by a law enforcement officer while the officer is engaged in the execution of his official duty;

(B) a person less than fourteen (14) years of age and is committed by a person at least eighteen (18) years of age;

(C) a person of any age who ~~is mentally or physically disabled~~ **has a mental or physical disability** and is committed by a person having the care of the ~~mentally or physically disabled~~ person **with a mental or physical disability,** whether the care is assumed voluntarily or because of a legal obligation;

(D) the other person and the person who commits the battery was previously convicted of a battery in which the victim was the other person;

(E) an endangered adult (as defined in IC 12-10-3-2);

(F) an employee of the department of correction while the employee is engaged in the execution of the employee's official duty;

(G) an employee of a school corporation while the employee is engaged in the execution of the employee's official duty;

(H) a correctional professional while the correctional professional is engaged in the execution of the correctional professional's official duty;

(I) a person who is a health care provider (as defined in IC 16-18-2-163) while the health care provider is engaged in the execution of the health care provider's official duty;

(J) an employee of a penal facility or a juvenile detention facility (as defined in IC 31-9-2-71) while the employee is engaged in the execution of the employee's official duty;

(K) a firefighter (as defined in IC 9-18-34-1) while the firefighter is engaged in the execution of the firefighter's official duty; or

(L) a community policing volunteer:

(i) while the volunteer is performing the duties described in IC 35-41-1-4.7; or

(ii) because the person is a community policing volunteer;

(3) a Class C felony if it results in serious bodily injury to any other person or if it is committed by means of a deadly weapon;

(4) a Class B felony if it results in serious bodily injury to a person less than fourteen (14) years of age and is committed by a person at least eighteen (18) years of age;

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(5) a Class A felony if it results in the death of a person less than fourteen (14) years of age and is committed by a person at least eighteen (18) years of age;

(6) a Class C felony if it results in serious bodily injury to an endangered adult (as defined in IC 12-10-3-2); and

(7) a Class B felony if it results in the death of an endangered adult (as defined in IC 12-10-3-2).

(b) For purposes of this section:

(1) "law enforcement officer" includes an alcoholic beverage enforcement officer; and

(2) "correctional professional" means a:

(A) probation officer;

(B) parole officer;

(C) community corrections worker; or

(D) home detention officer.

SECTION 212. IC 35-46-1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. As used in this chapter:

"Dependent" means:

(1) an unemancipated person who is under eighteen (18) years of age; or

(2) a person of any age who ~~is mentally or physically disabled.~~ **has a mental or physical disability.**

"Endangered adult" has the meaning set forth in IC 12-10-3-2.

"Support" means food, clothing, shelter, or medical care.

"Tobacco business" means a sole proprietorship, corporation, partnership, or other enterprise in which:

(1) the primary activity is the sale of tobacco, tobacco products, and tobacco accessories; and

(2) the sale of other products is incidental.

SECTION 213. IC 35-50-2-1.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1.5. As used in this chapter, ~~"mentally retarded~~ "individual **with mental retardation"** has the meaning set forth in IC 35-36-9-2.

SECTION 214. IC 35-50-2-3, AS AMENDED BY P.L.71-2005, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) A person who commits murder shall be imprisoned for a fixed term of between forty-five (45) and sixty-five (65) years, with the advisory sentence being fifty-five (55) years. In addition, the person may be fined not more than ten thousand dollars ($10,000).

(b) Notwithstanding subsection (a), a person who was:

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(1) at least eighteen (18) years of age at the time the murder was committed may be sentenced to:

(A) death; or

(B) life imprisonment without parole; and

(2) at least sixteen (16) years of age but less than eighteen (18) years of age at the time the murder was committed may be sentenced to life imprisonment without parole;

under section 9 of this chapter unless a court determines under IC 35-36-9 that the person is ~~a mentally retarded~~ **an** individual **with mental retardation.**

SECTION 215. IC 35-50-2-9, AS AMENDED BY P.L.1-2006, SECTION 550, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. (a) The state may seek either a death sentence or a sentence of life imprisonment without parole for murder by alleging, on a page separate from the rest of the charging instrument, the existence of at least one (1) of the aggravating circumstances listed in subsection (b). In the sentencing hearing after a person is convicted of murder, the state must prove beyond a reasonable doubt the existence of at least one (1) of the aggravating circumstances alleged. However, the state may not proceed against a defendant under this section if a court determines at a pretrial hearing under IC 35-36-9 that the defendant is ~~a mentally retarded~~ **an** individual **with mental retardation.**

(b) The aggravating circumstances are as follows:

(1) The defendant committed the murder by intentionally killing the victim while committing or attempting to commit any of the following:

(A) Arson (IC 35-43-1-1).

(B) Burglary (IC 35-43-2-1).

(C) Child molesting (IC 35-42-4-3).

(D) Criminal deviate conduct (IC 35-42-4-2).

(E) Kidnapping (IC 35-42-3-2).

(F) Rape (IC 35-42-4-1).

(G) Robbery (IC 35-42-5-1).

(H) Carjacking (IC 35-42-5-2).

(I) Criminal gang activity (IC 35-45-9-3).

(J) Dealing in cocaine or a narcotic drug (IC 35-48-4-1).

(2) The defendant committed the murder by the unlawful detonation of an explosive with intent to injure person or damage property.

(3) The defendant committed the murder by lying in wait.

(4) The defendant who committed the murder was hired to kill.

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(5) The defendant committed the murder by hiring another person to kill.

(6) The victim of the murder was a corrections employee, probation officer, parole officer, community corrections worker, home detention officer, fireman, judge, or law enforcement officer, and either:

(A) the victim was acting in the course of duty; or

(B) the murder was motivated by an act the victim performed while acting in the course of duty.

(7) The defendant has been convicted of another murder.

(8) The defendant has committed another murder, at any time, regardless of whether the defendant has been convicted of that other murder.

(9) The defendant was:

(A) under the custody of the department of correction;

(B) under the custody of a county sheriff;

(C) on probation after receiving a sentence for the commission of a felony; or

(D) on parole;

at the time the murder was committed.

(10) The defendant dismembered the victim.

(11) The defendant burned, mutilated, or tortured the victim while the victim was alive.

(12) The victim of the murder was less than twelve (12) years of age.

(13) The victim was a victim of any of the following offenses for which the defendant was convicted:

(A) Battery as a Class D felony or as a Class C felony under IC 35-42-2-1.

(B) Kidnapping (IC 35-42-3-2).

(C) Criminal confinement (IC 35-42-3-3).

(D) A sex crime under IC 35-42-4.

(14) The victim of the murder was listed by the state or known by the defendant to be a witness against the defendant and the defendant committed the murder with the intent to prevent the person from testifying.

(15) The defendant committed the murder by intentionally discharging a firearm (as defined in IC 35-47-1-5):

(A) into an inhabited dwelling; or

(B) from a vehicle.

(16) The victim of the murder was pregnant and the murder resulted in the intentional killing of a fetus that has attained

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viability (as defined in IC 16-18-2-365).

(c) The mitigating circumstances that may be considered under this section are as follows:

(1) The defendant has no significant history of prior criminal conduct.

(2) The defendant was under the influence of extreme mental or emotional disturbance when the murder was committed.

(3) The victim was a participant in or consented to the defendant's conduct.

(4) The defendant was an accomplice in a murder committed by another person, and the defendant's participation was relatively minor.

(5) The defendant acted under the substantial domination of another person.

(6) The defendant's capacity to appreciate the criminality of the defendant's conduct or to conform that conduct to the requirements of law was substantially impaired as a result of mental disease or defect or of intoxication.

(7) The defendant was less than eighteen (18) years of age at the time the murder was committed.

(8) Any other circumstances appropriate for consideration.

(d) If the defendant was convicted of murder in a jury trial, the jury shall reconvene for the sentencing hearing. If the trial was to the court, or the judgment was entered on a guilty plea, the court alone shall conduct the sentencing hearing. The jury or the court may consider all the evidence introduced at the trial stage of the proceedings, together with new evidence presented at the sentencing hearing. The court shall instruct the jury concerning the statutory penalties for murder and any other offenses for which the defendant was convicted, the potential for consecutive or concurrent sentencing, and the availability of good time credit and clemency. The court shall instruct the jury that, in order for the jury to recommend to the court that the death penalty or life imprisonment without parole should be imposed, the jury must find at least one (1) aggravating circumstance beyond a reasonable doubt as described in subsection (l) and shall provide a special verdict form for each aggravating circumstance alleged. The defendant may present any additional evidence relevant to:

(1) the aggravating circumstances alleged; or

(2) any of the mitigating circumstances listed in subsection (c).

(e) For a defendant sentenced after June 30, 2002, except as provided by IC 35-36-9, if the hearing is by jury, the jury shall recommend to the court whether the death penalty or life imprisonment

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without parole, or neither, should be imposed. The jury may recommend:

(1) the death penalty; or

(2) life imprisonment without parole;

only if it makes the findings described in subsection (l). If the jury reaches a sentencing recommendation, the court shall sentence the defendant accordingly. After a court pronounces sentence, a representative of the victim's family and friends may present a statement regarding the impact of the crime on family and friends. The impact statement may be submitted in writing or given orally by the representative. The statement shall be given in the presence of the defendant.

(f) If a jury is unable to agree on a sentence recommendation after reasonable deliberations, the court shall discharge the jury and proceed as if the hearing had been to the court alone.

(g) If the hearing is to the court alone, except as provided by IC 35-36-9, the court shall:

(1) sentence the defendant to death; or

(2) impose a term of life imprisonment without parole;

only if it makes the findings described in subsection (l).

(h) If a court sentences a defendant to death, the court shall order the defendant's execution to be carried out not later than one (1) year and one (1) day after the date the defendant was convicted. The supreme court has exclusive jurisdiction to stay the execution of a death sentence. If the supreme court stays the execution of a death sentence, the supreme court shall order a new date for the defendant's execution.

(i) If a person sentenced to death by a court files a petition for post-conviction relief, the court, not later than ninety (90) days after the date the petition is filed, shall set a date to hold a hearing to consider the petition. If a court does not, within the ninety (90) day period, set the date to hold the hearing to consider the petition, the court's failure to set the hearing date is not a basis for additional post-conviction relief. The attorney general shall answer the petition for post-conviction relief on behalf of the state. At the request of the attorney general, a prosecuting attorney shall assist the attorney general. The court shall enter written findings of fact and conclusions of law concerning the petition not later than ninety (90) days after the date the hearing concludes. However, if the court determines that the petition is without merit, the court may dismiss the petition within ninety (90) days without conducting a hearing under this subsection.

(j) A death sentence is subject to automatic review by the supreme

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court. The review, which shall be heard under rules adopted by the supreme court, shall be given priority over all other cases. The supreme court's review must take into consideration all claims that the:

(1) conviction or sentence was in violation of the:

(A) Constitution of the State of Indiana; or

(B) Constitution of the United States;

(2) sentencing court was without jurisdiction to impose a sentence; and

(3) sentence:

(A) exceeds the maximum sentence authorized by law; or

(B) is otherwise erroneous.

If the supreme court cannot complete its review by the date set by the sentencing court for the defendant's execution under subsection (h), the supreme court shall stay the execution of the death sentence and set a new date to carry out the defendant's execution.

(k) A person who has been sentenced to death and who has completed state post-conviction review proceedings may file a written petition with the supreme court seeking to present new evidence challenging the person's guilt or the appropriateness of the death sentence if the person serves notice on the attorney general. The supreme court shall determine, with or without a hearing, whether the person has presented previously undiscovered evidence that undermines confidence in the conviction or the death sentence. If necessary, the supreme court may remand the case to the trial court for an evidentiary hearing to consider the new evidence and its effect on the person's conviction and death sentence. The supreme court may not make a determination in the person's favor nor make a decision to remand the case to the trial court for an evidentiary hearing without first providing the attorney general with an opportunity to be heard on the matter.

(l) Before a sentence may be imposed under this section, the jury, in a proceeding under subsection (e), or the court, in a proceeding under subsection (g), must find that:

(1) the state has proved beyond a reasonable doubt that at least one (1) of the aggravating circumstances listed in subsection (b) exists; and

(2) any mitigating circumstances that exist are outweighed by the aggravating circumstance or circumstances.

SECTION 216. IC 36-8-3.5-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 12. (a) To be appointed to the department, an applicant must be:

(1) a citizen of the United States;

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(2) a high school graduate or equivalent; and

(3) at least twenty-one (21) years of age, but under thirty-six (36) years of age.

However, the age requirements do not apply to a person who has been previously employed as a member of the department.

(b) A person may not be appointed, reappointed, or reinstated if he has a felony conviction on his record.

(c) Applications for appointment or reappointment to the department must be filed with the commission. The applicant must produce satisfactory proof of the date and place of his birth.

(d) Applicants for appointment or reappointment to the department must pass the general aptitude test required under IC 36-8-3.2-3 or IC 36-8-3.2-3.5. The general aptitude test shall:

(1) reflect the essential functions of the job;

(2) be conducted according to procedures adopted by the commission; and

(3) be administered in a manner that reasonably accommodates the needs of ~~disabled~~ applicants **with a disability.**

The results of the general aptitude test shall be filed with the commission. If the commission finds that the applicant lacks the proper qualifications, it shall reject the applicant.

(e) The applicants shall then be rated on the selection criteria and testing methods adopted by the commission, which may include mental alertness, character, habits, and reputation. The commission shall adopt rules for grading the applicants, including the establishment of a passing score. The commission shall place the names of applicants with passing scores on an eligibility list by the order of their scores and shall certify the list to the safety board.

(f) If an applicant for original appointment reaches his thirty-sixth birthday, his name shall be removed from the eligibility list. Applicants remain on the list for two (2) years from the date of certification. After two (2) years a person may reapply as an applicant.

(g) When a vacancy occurs in the department, the commission, upon a written request of the chief of the department, shall administer the physical agility test under IC 36-8-3.2-3 or IC 36-8-3.2-3.5 to the applicant having the highest score on the eligibility list. If the appointed applicant successfully completes the physical agility test, the applicant shall then be enrolled as a member of the department to fill the vacancy if:

(1) the applicant is still of good character; and

(2) the applicant passes the required examinations identified in IC 36-8-3.2-6 and IC 36-8-8-19.

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(h) All appointments are probationary for a period not to exceed one (1) year. If the commission finds, upon the recommendation of the department during the probationary period, that the conduct or capacity of the probationary member is not satisfactory, the commission shall notify him in writing that he is being reprimanded, that he is being suspended, or that he will not receive a permanent appointment. If a member is notified that he will not receive a permanent appointment, his employment immediately ceases. Otherwise, at the expiration of the probationary period the member is considered regularly employed.

SECTION 217. IC 36-8-6-10.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10.1. (a) This section applies to a member who dies in the line of duty after August 31, 1982.

(b) The surviving spouse is entitled to a monthly benefit, during the spouse's lifetime, equal to the benefit to which the member would have been entitled on the date of the member's death, but no less than fifty percent (50%) of the monthly wage received by a first class patrolman. If the surviving spouse remarried before September 1, 1983, and benefits ceased on the date of remarriage, the benefits for the surviving spouse shall be reinstated on July 1, 1997, and continue during the life of the surviving spouse.

(c) A payment shall also be made to each child of a deceased member less than eighteen (18) years of age, in an amount fixed by ordinance, but at least an amount equal to twenty percent (20%) of the monthly pay of a first class patrolman per month to each child:

(1) until the child becomes eighteen (18) years of age;

(2) until the child becomes twenty-three (23) years of age if the child is enrolled in and regularly attending a secondary school or is a full-time student at an accredited college or university; or

(3) during the entire period of the child's physical or mental disability;

whichever period is longer.

(d) The surviving children of the deceased member who are eligible to receive a benefit under subsection (c) may receive an additional benefit in an amount fixed by ordinance, but the total additional benefit under this subsection to all the member's children may not exceed a total of thirty percent (30%) of the monthly wage received by a first class patrolman. However, this limitation does not apply to the children of a member who ~~are physically or mentally disabled.~~ **have a physical or mental disability.**

(e) If a deceased member leaves no surviving spouse and no child who qualifies for benefits under subsection (c) but does leave a

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dependent parent or parents, an amount equal to twenty percent (20%) of the monthly pay of a first class patrolman per month from the time of the member's death shall be paid to the dependent parent or parents during their dependency. When both parents survive, the total amount is still twenty percent (20%), to be paid to them jointly. In all cases of payment to a dependent relative of a deceased member, the board is the final judge of the question of necessity and dependency and of the amount to be paid. The board may also reduce or terminate temporarily or permanently a payment to a dependent relative of a deceased member when it determines that the condition of the fund or other circumstances make this action necessary.

(f) If the salary of a first class patrolman is increased or decreased, the pension payable under this section shall be proportionately increased or decreased. However, the monthly pension payable to a member or survivor may not be reduced below the amount of the first full monthly pension received by that person.

(g) For purposes of this section, "dies in the line of duty" means death that occurs as a direct result of personal injury or illness caused by incident, accident, or violence that results from any action that the member in the member's capacity as a police officer:

(1) is obligated or authorized by rule, regulation, condition of employment or service, or law to perform; or

(2) performs in the course of controlling or reducing crime or enforcing the criminal law.

The term includes a death presumed incurred in the line of duty under IC 5-10-13.

(h) The unit of local government that employed the deceased member shall after December 31, 2003, offer to provide and pay for health insurance coverage for the member's surviving spouse and for each natural child, stepchild, or adopted child of the member:

(1) until the child becomes eighteen (18) years of age;

(2) until the child becomes twenty-three (23) years of age if the child is enrolled in and regularly attending a secondary school or is a full-time student at an accredited college or university; or

(3) during the entire period of the child's physical or mental disability;

whichever period is longest. If health insurance coverage is offered by the unit to active members, the health insurance provided to a surviving spouse and child under this subsection must be equal in coverage to that offered to active members. The offer to provide and pay for health insurance coverage shall remain open for as long as there is a surviving spouse or as long as a natural child, stepchild, or adopted child of the

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member is eligible for the coverage under subdivision (1), (2), or (3).

SECTION 218. IC 36-8-7-11, AS AMENDED BY P.L.62-2006, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11. (a) Benefits paid under this section are subject to section 2.5 of this chapter.

(b) If a member of the fire department becomes seventy (70) years of age or is found upon examination by a medical officer to ~~be physically or mentally disabled~~ **have a physical or mental disability** and **to be** unable to perform the essential functions of the job, considering reasonable accommodation to the extent required by the Americans with Disabilities Act, so as to make necessary the person's retirement from all service with the department, the local board shall retire the person.

(c) The local board may retire a person for disability only after a hearing conducted under IC 36-8-8-12.7.

(d) If after the hearing the local board determines that a person who became disabled before July 1, 2000, is disabled and unable to perform the essential functions of the job, considering reasonable accommodation to the extent required by the Americans with Disabilities Act, the local board shall then authorize the monthly payment to the person from the 1937 fund of an amount equal to fifty-five percent (55%) of the salary of a fully paid first class firefighter in the unit at the time of the payment of the pension. All physical and mental examinations of members of the fire department shall be made on order of the local board by a medical officer designated by the local board.

(e) If after the hearing under this section and a recommendation under section 12.5 of this chapter, the 1977 fund advisory committee determines that a person who becomes disabled after June 30, 2000:

(1) has a disability that is:

(A) the direct result of:

(i) a personal injury that occurs while the fund member is on duty;

(ii) a personal injury that occurs while the fund member is responding to an emergency or reported emergency for which the fund member is trained; or

(iii) an occupational disease (as defined in IC 22-3-7-10), including a duty related disease that is also included within clause (B);

(B) a duty related disease (for purposes of this section, a "duty related disease" means a disease arising out of the fund member's employment. A disease is considered to arise out of

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the fund member's employment if it is apparent to the rational mind, upon consideration of all of the circumstances, that:

(i) there is a connection between the conditions under which the fund member's duties are performed and the disease;

(ii) the disease can be seen to have followed as a natural incident of the fund member's duties as a result of the exposure occasioned by the nature of the fund member's duties; and

(iii) the disease can be traced to the fund member's employment as the proximate cause); or

(C) a disability presumed incurred in the line of duty under IC 5-10-13 or IC 5-10-15; and

(2) is unable to perform the essential functions of the job, considering reasonable accommodation to the extent required by the Americans with Disabilities Act;

the local board shall then authorize the monthly payment to the person from the 1937 fund of an amount equal to fifty-five percent (55%) of the salary of a fully paid first class firefighter in the unit at the time of the payment of the pension. All physical and mental examinations of members of the fire department shall be made on order of the local board by a medical officer designated by the local board.

(f) If after the hearing under this section and a recommendation under section 12.5 of this chapter, the 1977 fund advisory committee determines that a person who becomes disabled after June 30, 2000:

(1) has a disability that is not a disability described in subsection (e)(1); and

(2) is unable to perform the essential functions of the job, considering reasonable accommodation to the extent required by the Americans with Disabilities Act;

the local board shall then authorize the monthly payment to the person from the 1937 fund of an amount equal to fifty-five percent (55%) of the salary of a fully paid first class firefighter in the unit at the time of the payment of the pension. All physical and mental examinations of members of the fire department shall be made on order of the local board by a medical officer designated by the local board.

SECTION 219. IC 36-8-7-12.4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 12.4. (a) This section applies to an active member who dies in the line of duty after August 31, 1982.

(b) If a member dies in the line of duty after August 31, 1982, the surviving spouse is entitled to a monthly benefit, during the spouse's lifetime, equal to the benefit to which the member would have been

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entitled on the date of the member's death, but not less than fifty percent (50%) of the monthly wage received by a fully paid first class firefighter. If the spouse remarried before September 1, 1983, and benefits ceased on the date of remarriage, the benefits for the surviving spouse shall be reinstated on July 1, 1997, and continue during the life of the surviving spouse. If the pension of the surviving spouse of a deceased member has ceased by virtue of the spouse's remarriage, and if the person to whom the spouse has remarried was a retired member of the fire department who was also entitled to a pension, then upon the death of the member to whom the spouse had remarried, the spouse is entitled to receive a pension as the surviving spouse of a deceased member as though the spouse had not been remarried.

(c) If a member dies while in active service, the member's children who are:

(1) less than eighteen (18) years of age; or

(2) less than twenty-three (23) years of age if the children are enrolled in and regularly attending a secondary school or are full-time students at an accredited college or university;

are each entitled to receive an amount fixed by ordinance but not less than twenty percent (20%) of the salary of a fully paid first class firefighter in the unit at the time of the payment of the pension.

(d) The surviving children of the deceased member who are eligible to receive a benefit under subsection (c) may receive an additional benefit in an amount fixed by ordinance, but the total additional benefit under this subsection to all the member's children may not exceed a total of thirty percent (30%) of the monthly wage received by a first class firefighter. However, this limitation does not apply to the children of a member who ~~are physically or mentally disabled.~~ **have a physical or mental disability.**

(e) If a deceased member of the fire department leaves no surviving spouse or children but leaves a dependent parent, and upon satisfactory proof that the parent was wholly dependent upon the deceased member, the local board shall authorize the monthly payment to the parent from the 1937 fund. Each parent of a deceased member who was eligible for a pension under this subsection is entitled to receive jointly an amount equal to thirty percent (30%) of the salary of a fully paid first class firefighter in the unit at the time of the payment of the pension.

(f) For purposes of this section, "dies in the line of duty" means death that occurs as a direct result of personal injury or illness caused by incident, accident, or violence that results from any action that the member, in the member's capacity as a firefighter:

(1) is obligated or authorized by rule, regulation, condition of

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employment or service, or law to perform; or

(2) performs while on the scene of an emergency run (including false alarms) or on the way to or from the scene.

The term includes a death presumed incurred in the line of duty under IC 5-10-13.

(g) If the local board finds upon the submission of satisfactory proof that a child eighteen (18) years of age or older is mentally or physically incapacitated, is not a ward of the state, and is not receiving a benefit under subsection (c)(2), the child is entitled to receive the same amount as is paid to the surviving spouse of a deceased firefighter, as long as the mental or physical incapacity continues. A sum paid for the benefit of a child or children shall be paid to the remaining parent, if alive, as long as the child or children reside with and are supported by the parent. If the parent dies, the sum shall be paid to the lawful guardian of the child or children.

(h) The monthly pension payable to a survivor may not be reduced below the amount of the first full monthly pension received by that person.

(i) A benefit payable under this section shall be paid in not less than twelve (12) monthly installments.

(j) The unit of local government that employed the deceased member shall after December 31, 2003, offer to provide and pay for health insurance coverage for the member's surviving spouse and for each natural child, stepchild, or adopted child of the member:

(1) until the child becomes eighteen (18) years of age;

(2) until the child becomes twenty-three (23) years of age if the child is enrolled in and regularly attending a secondary school or is a full-time student at an accredited college or university; or

(3) during the entire period of the child's physical or mental disability;

whichever period is longest. If health insurance coverage is offered by the unit to active members, the health insurance provided to a surviving spouse and child under this subsection must be equal in coverage to that offered to active members. The offer to provide and pay for health insurance coverage shall remain open for as long as there is a surviving spouse or as long as a natural child, stepchild, or adopted child of the member is eligible for the coverage under subdivision (1), (2), or (3).

SECTION 220. IC 36-8-7.5-14.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 14.1. (a) This section applies to an active member who dies in the line of duty after August 31, 1982.

(b) If a member dies in the line of duty after August 31, 1982, the

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surviving spouse is entitled to a monthly benefit, during the spouse's lifetime, equal to the benefit to which the member would have been entitled on the date of the member's death, but not less than fifty percent (50%) of the monthly wage received by a first class patrolman. If the spouse remarried before September 1, 1983, benefits ceased on the date of remarriage. However, if a member of the police department dies in the line of duty after August 31, 1982, and the member's surviving spouse remarried before September 1, 1983, the benefits for the surviving spouse shall be reinstated on July 1, 1995, and continue during the life of the surviving spouse.

(c) The 1953 fund shall also be used to pay an annuity equal to twenty percent (20%) of the salary of a first class patrolman on the police department, computed as provided in section 12(b) of this chapter and payable in monthly installments, to each dependent child of a member of the fund who dies from any cause while in the actual discharge of duties as a police officer. The pension to each child continues:

(1) until the child becomes eighteen (18) years of age;

(2) until the child becomes twenty-three (23) years of age if the child is enrolled in and regularly attending a secondary school or is a full-time student at an accredited college or university; or

(3) during the entire period of the child's physical or mental disability;

whichever period is longest. However, the pension to the child ceases if the child marries or is legally adopted by any person.

(d) The surviving children of the deceased member who are eligible to receive a benefit under subsection (c) may receive an additional benefit in an amount fixed by ordinance, but the total benefit to all the member's children under this subsection may not exceed a total of thirty percent (30%) of the monthly wage received by a first class patrolman. However, this limitation does not apply to the children of a member who ~~are physically or mentally disabled.~~ **have a physical or mental disability.**

(e) If a deceased member leaves no surviving spouse and no child who qualifies for a benefit under subsection (c) but does leave a dependent parent or parents, the 1953 fund shall be used to pay an annuity not greater than a sum equal to twenty percent (20%) of the salary of a first class patrolman on the police department, computed and payable as provided in section 12(b) of this chapter, payable monthly to the dependent parent or parents of a member of the police department who dies from any cause while in the actual discharge of duties as a police officer. The annuity continues for the remainder of

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the life or lives of the parent or parents as long as either or both fail to have sufficient other income for their proper care, maintenance, and support.

(f) In all cases of payment to a dependent relative of a deceased member, the local board is the final judge of the question of necessity and dependency and of the amount within the stated limits to be paid. The local board may also reduce or terminate temporarily or permanently a payment to a dependent relative of a deceased member when it determines that the condition of the 1953 fund or other circumstances make this action necessary.

(g) If the salary of a first class patrolman is increased or decreased, the pension payable under this section shall be proportionately increased or decreased. However, the monthly pension payable to a member or survivor may not be reduced below the amount of the first full monthly pension received by that person.

(h) For purposes of this section, "dies in the line of duty" means death that occurs as a direct result of personal injury or illness caused by incident, accident, or violence that results from any action that the member, in the member's capacity as a police officer:

(1) is obligated or authorized by rule, regulation, condition of employment or service, or law to perform; or

(2) performs in the course of controlling or reducing crime or enforcing the criminal law.

The term includes a death presumed incurred in the line of duty under IC 5-10-13.

(i) The unit of local government that employed the deceased member shall after December 31, 2003, offer to provide and pay for health insurance coverage for the member's surviving spouse and for each natural child, stepchild, or adopted child of the member:

(1) until the child becomes eighteen (18) years of age;

(2) until the child becomes twenty-three (23) years of age if the child is enrolled in and regularly attending a secondary school or is a full-time student at an accredited college or university; or

(3) during the entire period of the child's physical or mental disability;

whichever period is longest. If health insurance coverage is offered by the unit to active members, the health insurance provided to a surviving spouse and child under this subsection must be equal in coverage to that offered to active members. The offer to provide and pay for health insurance coverage shall remain open for as long as there is a surviving spouse or as long as a natural child, stepchild, or adopted child of the member is eligible for coverage under subdivision (1), (2), or (3).

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SECTION 221. IC 36-8-8-12, AS AMENDED BY P.L.62-2006, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 12. (a) Benefits paid under this section are subject to sections 2.5 and 2.6 of this chapter.

(b) If an active fund member has a covered impairment, as determined under sections 12.3 through 13.1 of this chapter, the member is entitled to receive the benefit prescribed by section 13.3 or 13.5 of this chapter. A member who has had a covered impairment and returns to active duty with the department shall not be treated as a new applicant seeking to become a member of the 1977 fund.

(c) If a retired fund member who has not yet reached the member's fifty-second birthday is found by the PERF board to be permanently or temporarily unable to perform all suitable work for which the member is or may be capable of becoming qualified, the member is entitled to receive during the disability the retirement benefit payments payable at fifty-two (52) years of age. During a reasonable period in which a ~~disabled~~ fund member **with a disability** is becoming qualified for suitable work, the member may continue to receive disability benefit payments. However, benefits payable for disability under this subsection are reduced by amounts for which the fund member is eligible from:

(1) a plan or policy of insurance providing benefits for loss of time because of disability;

(2) a plan, fund, or other arrangement to which the fund member's employer has contributed or for which the fund member's employer has made payroll deductions, including a group life policy providing installment payments for disability, a group annuity contract, or a pension or retirement annuity plan other than the fund established by this chapter;

(3) the federal Social Security Act (42 U.S.C. 401 et seq.), the Railroad Retirement Act (45 U.S.C. 231 et seq.), the United States Department of Veterans Affairs, or another federal, state, local, or other governmental agency;

(4) worker's compensation payable under IC 22-3; and

(5) a salary or wage, including overtime and bonus pay and extra or additional remuneration of any kind, the fund member receives or is entitled to receive from the member's employer.

For the purposes of this subsection, a retired fund member is considered eligible for benefits from subdivisions (1) through (5) whether or not the member has made application for the benefits.

(d) Notwithstanding any other law, a plan, policy of insurance, fund, or other arrangement:

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(1) delivered, issued for delivery, amended, or renewed after April 9, 1979; and

(2) described in subsection (c)(1) or (c)(2);

may not provide for a reduction or alteration of benefits as a result of benefits for which a fund member may be eligible from the 1977 fund under subsection (c).

(e) Time spent receiving disability benefits is considered active service for the purpose of determining retirement benefits until the fund member has a total of twenty (20) years of service.

(f) A fund member who is receiving disability benefits:

(1) under section 13.3(d) of this chapter; or

(2) based on a determination under this chapter that the fund member has a Class 3 impairment;

shall be transferred from disability to regular retirement status when the member becomes fifty-five (55) years of age.

(g) A fund member who is receiving disability benefits:

(1) under section 13.3(c) of this chapter; or

(2) based on a determination under this chapter that the fund member has a Class 1 or Class 2 impairment;

is entitled to receive a disability benefit for the remainder of the fund member's life.

SECTION 222. IC 36-8-8-13.3, AS AMENDED BY P.L.62-2006, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 13.3. (a) This section applies only to a fund member who:

(1) is hired for the first time before January 1, 1990; and

(2) does not choose coverage by sections 12.5 and 13.5 of this chapter under section 12.4 of this chapter.

This section does not apply to a fund member described in section 12.3(c)(2) of this chapter.

(b) A fund member:

(1) who became disabled before July 1, 2000;

(2) is determined to have a covered impairment; and

(3) for whom it is determined that there is no suitable and available work within the fund member's department, considering reasonable accommodation to the extent required by the Americans with Disabilities Act;

is entitled to receive during the disability a benefit equal to the benefit that the fund member would have received if the fund member had retired. If the ~~disabled~~ fund member **with a disability** does not have at least twenty (20) years of service or is not at least fifty-two (52) years of age, the benefit is computed and paid as if the fund member had

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twenty (20) years of service and was fifty-two (52) years of age.

(c) Except as otherwise provided in this subsection, a fund member:

(1) who becomes disabled after July 1, 2000;

(2) who is determined to have a covered impairment that is:

(A) the direct result of:

(i) a personal injury that occurs while the fund member is on duty;

(ii) a personal injury that occurs while the fund member is off duty and is responding to an offense or a reported offense, in the case of a police officer, or an emergency or reported emergency for which the fund member is trained, in the case of a firefighter; or

(iii) an occupational disease (as defined in IC 22-3-7-10), including a duty related disease that is also included within clause (B);

(B) a duty related disease (for purposes of this section, a "duty related disease" means a disease arising out of the fund member's employment. A disease is considered to arise out of the fund member's employment if it is apparent to the rational mind, upon consideration of all of the circumstances, that:

(i) there is a connection between the conditions under which the fund member's duties are performed and the disease;

(ii) the disease can be seen to have followed as a natural incident of the fund member's duties as a result of the exposure occasioned by the nature of the fund member's duties; and

(iii) the disease can be traced to the fund member's employment as the proximate cause); or

(C) a disability presumed incurred in the line of duty under IC 5-10-13 or IC 5-10-15; and

(3) for whom it is determined that there is no suitable and available work within the fund member's department, considering reasonable accommodation to the extent required by the Americans with Disabilities Act;

is entitled to receive during the disability a benefit equal to the benefit that the fund member would have received if the fund member had retired. If the ~~disabled~~ fund member **with a disability** does not have at least twenty (20) years of service or is not at least fifty-two (52) years of age, the benefit is computed and paid as if the fund member had twenty (20) years of service and was fifty-two (52) years of age.

(d) Except as otherwise provided in this subsection, a fund member:

(1) who becomes disabled after July 1, 2000;

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(2) who is determined to have a covered impairment that is not a covered impairment described in subsection (c)(2); and

(3) for whom it is determined that there is no suitable and available work within the fund member's department, considering reasonable accommodation to the extent required by the federal Americans with Disabilities Act;

is entitled to receive during the disability a benefit equal to the benefit that the fund member would have received if the fund member had retired. If the ~~disabled~~ fund member **with a disability** does not have at least twenty (20) years of service or is not at least fifty-two (52) years of age, the benefit is computed and paid as if the fund member had twenty (20) years of service and was fifty-two (52) years of age.

(e) Notwithstanding section 12.3 of this chapter and any other provision of this section, a member who:

(1) has had a covered impairment;

(2) recovers and returns to active service with the department; and

(3) within two (2) years after returning to active service has an impairment that except for section 12.3 of this chapter would be a covered impairment;

is entitled to the benefit under this subsection if the impairment described in subdivision (3) results from the same condition or conditions (without an intervening circumstance) that caused the covered impairment described in subdivision (1). The member is entitled to receive the monthly disability benefit amount paid to the member at the time of the member's return to active service plus any adjustments under section 15 of this chapter that would have been applicable during the member's period of reemployment.

SECTION 223. IC 36-8-10-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 15. (a) The department may establish and operate a disability benefit program for the payment of disability expense reimbursement and pensions to ~~disabled employee~~ beneficiaries **of an employee with a disability.** The department may provide these benefits by the creation of a reserve account, by obtaining disability insurance coverage, or both. However, the department may not establish or modify a disability benefit program after June 30, 1989, without the approval of the county fiscal body which shall not reduce or diminish any disability benefits set forth in any disability program that was in effect on January 1, 1989.

(b) Benefits payable as a result of line of duty activities, including a disability presumed incurred in the line of duty under IC 5-10-13, must be in reasonable amounts. Monthly benefits payable as a result of other activities may not exceed the amount of pension to which that

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employee beneficiary employed until normal retirement age would have been entitled.

SECTION 224. IC 36-8-10-23 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 23. (a) This section applies to a county that adopts the provisions of this section by an ordinance of the county fiscal body.

(b) The county fiscal body may provide for:

(1) an annual cost of living payment to ~~retired or disabled~~ employee beneficiaries **who are retired or have a disability,** or both; or

(2) an ad hoc cost of living payment to ~~retired or disabled~~ employee beneficiaries **who are retired or have a disability,** or both. The amount of the ad hoc cost of living payment under this subdivision is not an increase in the base pension benefit calculated under section 12 or 12.1 of this chapter.

(c) In the case of an annual cost of living payment granted under subsection (b)(1), the amount of the cost of living payment shall be determined each year by the pension engineers under this subsection. The pension engineers shall determine if there has been an increase in the Consumer Price Index (United States city average) prepared by the United States Department of Labor by comparing the arithmetic mean of the Consumer Price Index for January, February, and March of the payment year with the same three (3) month period of the preceding year. If there has been an increase, the increase shall be stated as a percentage of the arithmetic mean for the three (3) month period for the year preceding the payment year (the adjustment percentage). The adjustment percentage shall be rounded to the nearest one-tenth of one percent (0.1%) and may not exceed three percent (3%).

(d) In the case of a cost of living payment granted under subsection (b)(2), the amount of the cost of living payment shall be determined by the county fiscal body and may be:

(1) a percentage increase, not to exceed the percentage determined under subsection (c); or

(2) a fixed dollar amount.

(e) A payment authorized under this section shall be made to each authorized ~~retired or disabled~~ employee beneficiary **who is retired or has a disability** and may be made annually, semiannually, quarterly, or monthly.

(f) A cost of living payment granted under this section shall be funded by a direct appropriation or by maintaining a fully funded actuarially sound trust fund.

(g) A cost of living payment granted under this section is applicable

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only to ~~retired or disabled~~ employee beneficiaries who:

(1) are retired or have a disability; and

(2) are at least fifty-five (55) years of age.

(h) No provision of this section shall be made part of any ordinance or agreement concerning collective bargaining. No provision of this section shall be subject to bargaining under any statute, ordinance, or agreement.

SECTION 225. IC 36-9-4-29.4, AS AMENDED BY P.L.1-2005, SECTION 238, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 29.4. (a) This section does not apply to a public transportation corporation located in a county having a consolidated city.

(b) A public transportation corporation may provide regularly scheduled passenger service to specifically designated locations outside the system's operational boundaries as described in IC 36-9-1-9 if all of the following conditions are met:

(1) The legislative body of the municipality approves any expansion of the service outside the municipality's corporate boundaries.

(2) The expanded service is reasonably required to do any of the following:

(A) Enhance employment opportunities in the new service area or the existing service area.

(B) Serve ~~the~~ **persons who are** elderly, ~~disabled,~~ **persons with a disability,** or other persons who are in need of public transportation.

(3) The rates or compensation for the expanded service are sufficient, on a fully allocated cost basis, to prevent a property tax increase in the taxing district solely as a result of the expanded service.

(4) Except as provided in subsection (e), the expanded service does not extend beyond the boundary of the county in which the corporation is located.

(5) The corporation complies with sections 29.5 and 29.6 of this chapter.

(c) Notwithstanding section 39 of this chapter, a public transportation corporation may provide demand responsive service outside of the system's operational boundaries as described in IC 36-9-1-9 if the conditions listed in subsection (b) are met.

(d) The board may contract with a private operator for the operation of an expanded service under this section.

(e) Subsection (b)(4) does not apply to a special purpose bus (as

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defined in IC 20-27-2-10) or a school bus (as defined in IC 20-27-2-8) that provides expanded service for a purpose permitted under IC 20-27-9.

SECTION 226. THE FOLLOWING ARE REPEALED [EFFECTIVE UPON PASSAGE]: IC 12-7-2-20; IC 12-7-2-62; IC 12-7-2-65; IC 12-7-2-66; IC 12-7-2-117.4; IC 12-7-2-131; IC 22-9.5-2-10.

SECTION 227. **An emergency is declared for this act.**

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COMMITTEE REPORT

Madam President: The Senate Committee on Health and Provider Services, to which was referred Senate Bill No. 94, 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 40, line 5, strike "the totally disabled" and insert "**individuals with a total disability**".

Page 40, line 13, strike "the totally".

Page 40, line 14, strike "disabled" and insert "**individuals with a total disability**".

Page 77, line 17, delete "have".

and when so amended that said bill do pass.

(Reference is to SB 94 as introduced.)

MILLER, Chairperson

Committee Vote: Yeas 8, Nays 0.

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