Reprinted
February 2, 2010

SENATE BILL No. 295

DIGEST OF SB 295 (Updated February 1, 2010 7:58 pm - DI 104)

Citations Affected: IC 4-1; IC 4-21.5; IC 12-7; IC 12-9.1; IC 12-11; IC 12-14; IC 12-15; IC 12-17.2; IC 12-21; IC 12-23; IC 12-24; IC 16-39; IC 34-30; IC 35-46; noncode.

Synopsis: Family and social services. Authorizes the disclosure of a Social Security number for the administration of a state funded health plan. Specifies the notice procedures for the division of aging and the bureau of developmental disabilities services to follow against certain providers regulated by the division or the bureau. Authorizes the director of the division of aging and the bureau of developmental disabilities to issue certain notice orders against a provider that violates rules issued by the division for a program in which the provider is providing services. Allows certain individuals who were convicted of a drug offense but have not been convicted of another drug offense in the previous 5 years to receive food stamps. Provides for a part of specified federal dollars to be disbursed to local programs that provide prevention and treatment services to individuals who have been

(Continued next page)

Effective: July 1, 2010.

Miller, Lawson C

January 11, 2010, read first time and referred to Committee on Health and Provider Services.
January 28, 2010, amended, reported favorably — Do Pass.
February 1, 2010, read second time, amended, ordered engrossed.

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Digest Continued

diagnosed with chronic substance abuse and dependence and are without significant or immediate treatment needs. Requires a family to receive a cash assistance benefit of at least $10 under the Temporary Assistance for Needy Families (TANF) program if certain income standards and employment earnings are met. Specifies that access to a child support enforcement program and IMPACT (JOBS) training program are included as TANF services for certain eligible families. Changes the time frame in which certain Medicaid notices or bulletins may become effective, from 45 days to 30 days, after issuance. Specifies that certain recreation programs for school age children may be exempt from licensure requirements. Removes language that specifies staffing requirements for the Evansville State Hospital and the Evansville State Psychiatric Treatment Center for Children. Establishes the council for Evansville state hospitals. Requires the release of certain mental health care information in certain circumstances. Transfers administrative rules concerning aging to the division of aging. Repeals: (1) a provision that requires the adult protective services unit and the division of aging to destroy any records concerning a report concerning an endangered adult that is unsubstantiated; and (2) the definition of "case management". Makes technical changes.

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Reprinted
February 2, 2010

Second Regular Session 116th General Assembly (2010)

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 2009 Regular and Special Sessions of the General Assembly.

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SENATE BILL No. 295

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

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

SECTION 1. IC 4-1-10-5, AS AMENDED BY P.L.106-2008, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 5. (a) A state agency may disclose the Social Security number of an individual if any of the following apply:

(1) The disclosure of the Social Security number is expressly required by state law, federal law, or a court order.

(2) The individual expressly consents in writing to the disclosure of the individual's Social Security number.

(3) The disclosure of the Social Security number is:

(A) made to comply with:

(i) the USA Patriot Act of 2001 (P.L. 107-56); or

(ii) Presidential Executive Order 13224; or

(B) to a commercial entity for the permissible uses set forth in the:

(i) Drivers Privacy Protection Act (18 U.S.C. 2721 et seq.);

(ii) Fair Credit Reporting Act (15 U.S.C. 1681 et seq.); or

(iii) Financial Modernization Act of 1999 (15 U.S.C. 6801

et seq.).

(4) The disclosure of the Social Security number is for the purpose of administration of a state agency employee's or the state agency employee's dependent's health benefits.

(5) The disclosure of the Social Security number is for the purpose of administration of:

(A) a pension fund administered by the board of trustees of the public employees' retirement fund;

(B) the Indiana state teachers' retirement fund;

(C) a deferred compensation plan or defined contribution plan established under IC 5-10-1.1;

(D) a pension plan established by the state police department under IC 10-12; or

(E) the Uniform Commercial Code (IC 26-1) by the office of the secretary of state.

(6) The disclosure of the Social Security number is for the purpose of the administration of a state funded health plan.

(b) A state agency's disclosure of the Social Security number of an individual in compliance with subsection (a) does not violate IC 5-14-3-4(a)(12).

SECTION 2. IC 4-21.5-3-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 6. (a) Notice shall be given under this section concerning the following:

(1) A safety order under IC 22-8-1.1.

(2) Any order that:

(A) imposes a sanction on a person or terminates a legal right, duty, privilege, immunity, or other legal interest of a person;

(B) is not described in section 4 or 5 of this chapter or IC 4-21.5-4; and

(C) by statute becomes effective without a proceeding under this chapter if there is no request for a review of the order within a specified period after the order is issued or served.

(3) A notice of program reimbursement or equivalent determination or other notice regarding a hospital's reimbursement issued by the office of Medicaid policy and planning or by a contractor of the office of Medicaid policy and planning regarding a hospital's year end cost settlement.

(4) A determination of audit findings or an equivalent determination by the office of Medicaid policy and planning or by a contractor of the office of Medicaid policy and planning arising from a Medicaid postpayment or concurrent audit of a hospital's Medicaid claims.

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(5) A license revocation under:
(A) IC 24-4.5-3;
(B) IC 28-1-29;
(C) IC 28-7-5;
(D) IC 28-8-4; or
(E) IC 28-8-5.
(6) An order issued by the:
(A) division of aging; or
(B) bureau of developmental disabilities services;
against providers regulated by the division of aging or the bureau of developmental disabilities services and not licensed by the state department of health under IC 16-27 or IC 16-28.

(b) When an agency issues an order described by subsection (a), the agency shall give notice to the following persons:
(1) Each person to whom the order is specifically directed.
(2) Each person to whom a law requires notice to be given.

A person who is entitled to notice under this subsection is not a party to any proceeding resulting from the grant of a petition for review under section 7 of this chapter unless the person is designated as a party in the record of the proceeding.

(c) The notice must include the following:
(1) A brief description of the order.
(2) A brief explanation of the available procedures and the time limit for seeking administrative review of the order under section 7 of this chapter.
(3) Any other information required by law.

(d) An order described in subsection (a) is effective fifteen (15) days after the order is served, unless a statute other than this article specifies a different date or the agency specifies a later date in its order. This subsection does not preclude an agency from issuing, under IC 4-21.5-4, an emergency or other temporary order concerning the subject of an order described in subsection (a).

(e) If a petition for review of an order described in subsection (a) is filed within the period set by section 7 of this chapter and a petition for stay of effectiveness of the order is filed by a party or another person who has a pending petition for intervention in the proceeding, an administrative law judge shall, as soon as practicable, conduct a preliminary hearing to determine whether the order should be stayed in whole or in part. The burden of proof in the preliminary hearing is on the person seeking the stay. The administrative law judge may stay the order in whole or in part. The order concerning the stay may be issued after an order described in subsection (a) becomes effective. The

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resulting order concerning the stay shall be served on the parties and any person who has a pending petition for intervention in the proceeding. It must include a statement of the facts and law on which it is based.

SECTION 3. IC 12-7-2-25 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 25. "Case management", ~~means the following:~~

~~(1)~~ for purposes of IC 12-10-1 and IC 12-10-10, has the meaning set forth in IC 12-10-10-1.

~~(2) For purposes of IC 12-7-2-40.6 and IC 12-24-19, the meaning set forth in IC 12-24-19-2.~~

SECTION 4. IC 12-7-2-40.6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 40.6. "Continuum of care" means a range of services ~~the provision of which is assured by a community mental health center or a managed care provider. The term includes the following:~~ **that are based on current practice and recovery focused models of care and that are intended to meet the individual treatment needs of the consumer.**

~~(1) Individualized treatment planning to increase patient coping skills and symptom management, which may include any combination of services listed under this section.~~

~~(2) Twenty-four (24) hour a day crisis intervention.~~

~~(3) Case management to fulfill individual patient needs, including assertive case management when indicated.~~

~~(4) Outpatient services, including intensive outpatient services, substance abuse services, counseling, and treatment.~~

~~(5) Acute stabilization services, including detoxification services.~~

~~(6) Residential services.~~

~~(7) Day treatment.~~

~~(8) Family support services.~~

~~(9) Medication evaluation and monitoring.~~

~~(10) Services to prevent unnecessary and inappropriate treatment and hospitalization and the deprivation of a person's liberty.~~

SECTION 5. IC 12-9.1-2-3, AS ADDED BY P.L.141-2006, SECTION 38, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 3. (a) The director may do the following:

(1) Employ experts and consultants to assist the division in carrying out the division's functions.

(2) Use, with their consent, the services and facilities of other state agencies without reimbursement.

(3) Accept in the name of the division, for use in carrying out the functions of the division, money or property received by gift,

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bequest, or otherwise.

(4) Accept voluntary and uncompensated services.

(5) Expend money made available to the division according to policies enforced by the budget agency.

(6) Adopt rules under IC 4-22-2 necessary to carry out the functions of the division. However, rules adopted by the director must be approved by the family and social services committee established by IC 12-8-3-2 before submission to the attorney general under IC 4-22-2-31.

(7) Establish and implement the policies and procedures necessary to carry out the functions of the division.

(8) Issue orders under IC 4-21.5-3-6.

~~(8)~~ **(9)** Perform any other acts necessary to carry out the functions of the division.

(b) The director shall compile information and statistics from each bureau concerning the ethnicity and gender of a program or service recipient. The director may adopt rules under IC 4-22-2 necessary to implement this subsection.

SECTION 6. IC 12-11-1.1-1, AS AMENDED BY P.L.99-2007, SECTION 70, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: 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 individuals with a developmental disability and their families, within the limits of available resources. The planning and delivery of services must be based on 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 individual with a developmental disability and that individual's family.

(c) Services for 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 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.

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(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 individuals with a developmental disability in state institutions and health facilities licensed under IC 16-28 for 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) must consider the needs of and provide choices and options for:

(1) individuals with a developmental disability; and

(2) families of individuals with a developmental disability.

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

(i) The bureau may issue orders under IC 4-21.5-3-6 against a provider that violates rules issued by the bureau for programs in which the provider is providing services.

SECTION 7. IC 12-14-2-5.1, AS AMENDED BY P.L.161-2007, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 5.1. (a) Subject to section 5.2 of this chapter, a parent or an essential person may not receive payments if the person has received assistance under this article during the person's lifetime for twenty-four (24) months after June 30, 1995.

(b) ~~Subject to the time limits contained in subsection (a), a person who qualifies for~~ **A family receiving** TANF under section 5 of this

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chapter remains ~~categorically~~ eligible to receive TANF ~~assistance when the person becomes employed and the person's family's net earnings from employment calculated under rules adopted by the director of the division under IC 4-22-2, in combination with other sources of family income,~~ **services, including access to the Title IV-D child support enforcement program and the IMPACT (JOBS) program, when the family's income** is greater than the amount of need recognized under section 5 of this chapter, but the family's gross income is less than one hundred percent (100%) of the federal income poverty level.

(c) A recipient family shall receive a cash assistance benefit under the TANF program of at least ten dollars ($10) if:

(1) the family's income is greater than the amount of need recognized under section 5 of this chapter;

(2) the family's gross income is less than one hundred percent (100%) of the federal income poverty level; and

(3) a parent or essential person receiving assistance has employment earnings.

SECTION 8. IC 12-14-30 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]:

Chapter 30. Food Stamp Assistance for Individuals With Drug Convictions

Sec. 1. In accordance with 21 U.S.C. 862a(d)(1), the state elects to opt out of the application of 21 U.S.C. 862a(a) for individuals who meet the requirements of this chapter.

Sec. 2. Under this chapter, an individual is eligible for food stamps if the individual meets all the following requirements:

(1) The individual was convicted of an offense under IC 35-48 (controlled substances) for conduct occurring after August 22, 1996.

(2) Except for 21 U.S.C. 862a(a), the individual meets the federal and Indiana food stamp program requirements.

(3) The individual has not been convicted of another offense under IC 35-48 (controlled substances) in the five (5) years preceding the individual's application for food stamps assistance.

SECTION 9. IC 12-15-13-6, AS AMENDED BY P.L.15-2009, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 6. (a) Except as provided by IC 12-15-35-50, a notice or bulletin that is issued by:

(1) the office;

(2) a contractor of the office; or

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(3) a managed care plan under the office;

concerning a change to the Medicaid program that does not require use of the rulemaking process under IC 4-22-2 may not become effective until ~~forty-five (45)~~ **thirty (30)** days after the date the notice or bulletin is communicated to the parties affected by the notice or bulletin.

(b) The office must provide a written notice or bulletin described in subsection (a) within five (5) business days after the date on the notice or bulletin.

SECTION 10. IC 12-15-13-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 7. (a) The office and an entity with which the office contracts for the payment of claims shall accept claims submitted on any of the following forms by an individual or organization that is a contractor or subcontractor of the office:

(1) ~~HCFA-1500.~~ **CMS-1500.**

(2) ~~HCFA-1450 (UB92).~~ **CMS-1450 (UB04).**

(3) American Dental Association (ADA) claim form.

(4) Pharmacy and compound drug form.

(b) The office and an entity with which the office contracts for the payment of claims:

(1) may designate as acceptable claim forms other than a form listed in subsection (a); and

(2) may not mandate the use of a crossover claim form.

SECTION 11. IC 12-17.2-2-8, AS AMENDED BY P.L.1-2005, SECTION 136, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 8. The division shall exempt from licensure the following programs:

(1) A program for children enrolled in grades kindergarten through 12 that is operated by the department of education or a public or private school.

(2) A program for children who become at least three (3) years of age as of December 1 of a particular school year (as defined in IC 20-18-2-17) that is operated by the department of education or a public or private school.

(3) A nonresidential program for a child that provides child care for less than four (4) hours a day.

(4) A recreation program for **school age** children that operates for not more than ninety (90) days in a calendar year.

(5) A program whose primary purpose is to provide social, recreational, or religious activities for school age children, such as scouting, boys club, girls club, sports, or the arts.

(6) A program operated to serve migrant children that:

(A) provides services for children from migrant worker

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families; and

(B) is operated during a single period of less than one hundred twenty (120) consecutive days during a calendar year.

(7) A child care ministry registered under IC 12-17.2-6.

(8) A child care home if the provider:

(A) does not receive regular compensation;

(B) cares only for children who are related to the provider;

(C) cares for less than six (6) children, not including children for whom the provider is a parent, stepparent, guardian, custodian, or other relative; or

(D) operates to serve migrant children.

(9) A child care program operated by a public or private secondary school that:

(A) provides day care on the school premises for children of a student or an employee of the school;

(B) complies with health, safety, and sanitation standards as determined by the division under section 4 of this chapter for child care centers or in accordance with a variance or waiver of a rule governing child care centers approved by the division under section 10 of this chapter; and

(C) substantially complies with the fire and life safety rules as determined by the state fire marshal under rules adopted by the division under section 4 of this chapter for child care centers or in accordance with a variance or waiver of a rule governing child care centers approved by the division under section 10 of this chapter.

(10) A school age child care program (commonly referred to as a latch key program) established under IC 20-26-5-2 that is operated by:

(A) the department of education;

(B) a public or private school; or

(C) a public or private organization under a written contract with:

(i) the department of education; or

(ii) a public or private school.

SECTION 12. IC 12-21-2-3, AS AMENDED BY P.L.99-2007, SECTION 100, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: 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

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statutory duties and powers of the division or a bureau of the 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 with a mental illness.

(C) Certifying community residential programs described in IC 12-22-2-3 for individuals 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.

(6) Institute programs, in conjunction with an accredited college

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or university and with the approval, if required by law, of the commission for higher education, 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.~~ **and adopt rules under IC 4-22-2 concerning the continuum of care. In adopting rules under this subdivision, the division shall consider a proposed rule's impact on reimbursement to a provider that is providing care.**

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

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the following:

(1) The anticipated duration of the patient's mental health setting 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 13. IC 12-23-1-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 9. ~~One-third (1/3)~~ **(a) A part of the total amount** of the federal money earmarked for Drug Abuse and Alcohol Abuse/Alcoholics Efforts received for disbursement by the division shall be used for ~~treatment~~ **local** programs that ~~are not under the direction of a community mental health center or a state institution.~~ **provide prevention services and intervention and treatment services for individuals who:**

(1) have a primary diagnosis of chronic substance abuse and dependence; and

(2) are without significant or immediate treatment needs for mental illness or serious emotional disturbance.

(b) The amount described in subsection (a) shall be distributed to specialty addiction providers that serve the eligible population to provide consumer choice based on outcomes determined by the division.

SECTION 14. IC 12-23-2-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 8. (a) ~~Except as provided in subsection (b),~~ For each state fiscal year, the division shall distribute ~~an amount equal to at least thirty-three percent (33%)~~ **a part** of the total amount received by the division from the addiction services fund established by section 2 of this chapter during the immediately preceding fiscal year to local programs that provide prevention services and intervention and treatment services for individuals who: ~~are:~~

~~(1) psychologically or physiologically dependent upon alcohol or other drugs; or~~

~~(2) psychologically dependent on gambling.~~

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(1) have a primary diagnosis of chronic substance abuse and dependence; and

(2) are without significant or immediate treatment needs for mental illness or serious emotional disturbance.

(b) The amount described in subsection (a) ~~may not~~ **shall** be distributed to ~~a county home, a local mental health program established under IC 12-29, or a state institution.~~ **specialty addiction providers that serve the eligible population to provide consumer choice based on outcomes determined by the division.**

SECTION 15. IC 12-24-1-3, AS AMENDED BY P.L.141-2006, SECTION 62, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 3. (a) The director of the division of mental health and addiction has administrative control of and responsibility for the following state institutions:

(1) Evansville State Hospital.

(2) Evansville State Psychiatric Treatment Center for Children.

(3) Larue D. Carter Memorial Hospital.

(4) Logansport State Hospital.

(5) Madison State Hospital.

(6) Richmond State Hospital.

(7) Any other state owned or operated mental health institution.

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

~~(c) The following applies only to the institutions described in subsection (a)(1) and (a)(2).~~

~~(1) Notwithstanding any other statute or policy, the division of mental health and addiction may not do the following after December 31, 2001, unless specifically authorized by a statute enacted by the general assembly.~~

~~(A) Terminate, in whole or in part, normal patient care or other operations at the facility.~~

~~(B) Reduce the staffing levels and classifications below those in effect at the facility on January 1, 2002.~~

~~(C) Terminate the employment of an employee of the facility except in accordance with IC 4-15-2.~~

~~(2) The division of mental health and addiction shall fill a vacancy created by a termination described in subdivision (1)(C) so that the staffing levels at the facility are not reduced below the staffing levels in effect on January 1, 2002.~~

~~(3) Notwithstanding any other statute or policy, the division of~~

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~~mental health and addiction may not remove, transfer, or discharge any patient at the facility unless the removal, transfer, or discharge is in the patient's best interest and is approved by:~~

~~(A) the patient or the patient's parent or guardian;~~

~~(B) the individual's gatekeeper; and~~

~~(C) the patient's attending physician.~~

(c) The division of mental health and addiction may not terminate normal patient care at a facility described in subsection (a)(1) or (a)(2) unless the termination is specifically authorized by a statute enacted by the general assembly or recommended by the council established by section 3.5 of this chapter.

(d) The Evansville State Psychiatric Treatment Center for Children shall remain independent of Evansville State Hospital and the southwestern Indiana community mental health center, and the Evansville State Psychiatric Treatment Center for Children shall continue to function autonomously unless a change in administration is specifically authorized by an enactment of the general assembly **or recommended by the council established by section 3.5 of this chapter.**

SECTION 16. IC 12-24-1-3.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 3.5. (a) The council on Evansville state hospitals is established.**

(b) The council consists of the following members:

(1) One (1) superior court judge having exclusive juvenile jurisdiction in Vanderburgh County, who shall act as chairperson of the council.

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

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

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

(B) must represent Evansville or a surrounding area.

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

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

(B) must represent Evansville or a surrounding area.

(5) Two (2) mental health providers that provide mental health services in the Evansville area.

(6) One (1) member who:

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(A) resides in the Evansville area; and
(B) provides services in the community, including:
(i) law enforcement services; or
(ii) children's services.
(7) The superintendent of the Evansville State Psychiatric Treatment Center for Children, or the superintendent's designee.
(8) The superintendent of the Evansville State Hospital, or the superintendent's designee.
(9) One (1) representative of a statewide mental health association.
(10) One (1) parent of a child who has received services at the Evansville State Psychiatric Treatment Center for Children and who is not associated with the Evansville State Psychiatric Treatment Center for Children or the Evansville State Hospital except as a consumer.

(c) The president pro tempore of the senate shall make the appointment set forth in subsection (b)(1), one (1) of the appointments in subsection (b)(5), and the appointment set forth in subsection (b)(9). The speaker of the house of representatives shall make one (1) of the appointments set forth in subsection (b)(5), the appointment set forth in subsection (b)(6), and the appointment set forth in subsection (b)(10).

(d) The council has the following duties:
(1) Review the following:
(A) The mental health and addiction services available to children in the Evansville area.
(B) The quality of the care provided to patients in a facility described in section 3(a)(1) and 3(a)(2) of this chapter.
(C) The utilization of the facilities and the cause for any underutilization.
(2) Determine the viability and need for the facilities described in section 3(a)(1) and 3(a)(2) of this chapter.
(3) Provide recommendations to:
(A) the office of the secretary; and
(B) the general assembly, in electronic format under IC 5-14-6;
concerning the council's findings under this subsection, including whether the council is making a recommendation under section 3 of this chapter.

(e) The division of mental health and addiction shall staff the council.

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(f) The expenses of the council shall be paid by the division of mental health and addiction.

(g) A member of the council is not entitled to salary per diem or traveling expenses.

(h) The chairperson and the members described in subsections (b)(7) and (b)(8) shall serve as nonvoting members. The affirmative votes of a majority of the voting members of the council are required for the council to take action on any recommendation.

(i) This section expires December 31, 2012.

SECTION 17. IC 16-39-2-6.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 6.5. (a) Without the consent of the patient, the patient's mental health record shall be disclosed to a court to the extent necessary for the court to transmit the information required under the following:**

(1) IC 12-26-6-8(g).

(2) IC 12-26-7-5(c).

(3) IC 35-36-2-4(e).

(4) IC 35-36-2-5(f).

(5) IC 35-36-3-1(c).

(b) A person who discloses information under this section in good faith is immune from civil and criminal liability.

SECTION 18. IC 34-30-2-77.6 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 77.6. IC 16-39-2-6.5 (Concerning a person who releases mental health records under certain circumstances).**

SECTION 19. IC 35-46-1-13, AS AMENDED BY P.L.141-2006, SECTION 112, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 13. (a) A person who:

(1) believes or has reason to believe that an endangered adult is the victim of battery, neglect, or exploitation as prohibited by this chapter, IC 35-42-2-1(a)(2)(C), or IC 35-42-2-1(a)(2)(E); and

(2) knowingly fails to report the facts supporting that belief to the division of disability and rehabilitative services, the division of aging, the adult protective services unit designated under IC 12-10-3, or a law enforcement agency having jurisdiction over battery, neglect, or exploitation of an endangered adult;

commits a Class B misdemeanor.

(b) An officer or employee of the division or adult protective services unit who unlawfully discloses information contained in the records of the division of aging under IC 12-10-3-12 through

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~~IC 12-10-3-16~~ **IC 12-10-3-15** commits a Class C infraction.

(c) A law enforcement agency that receives a report that an endangered adult is or may be a victim of battery, neglect, or exploitation as prohibited by this chapter, IC 35-42-2-1(a)(2)(C), or IC 35-42-2-1(a)(2)(E) shall immediately communicate the report to the adult protective services unit designated under IC 12-10-3.

(d) An individual who discharges, demotes, transfers, prepares a negative work performance evaluation, reduces benefits, pay, or work privileges, or takes other action to retaliate against an individual who in good faith makes a report under IC 12-10-3-9 concerning an endangered individual commits a Class A infraction.

SECTION 20. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2010]: IC 12-10-3-16; IC 12-24-19-2.

SECTION 21. [EFFECTIVE JULY 1, 2010] **(a) The publisher of the Indiana Administrative Code shall transfer rules concerning the division of aging from the division of disability and rehabilitative services title to a new title for the division of aging, including the following rules:**

(1) 460 IAC 1.

(2) 460 IAC 1.2.

(3) 460 IAC 8.

(b) The office of the secretary of family and social services shall assist the publisher of the Indiana Administrative Code in identifying any other rules concerning the division of aging to be transferred.

(c) This SECTION expires December 31, 2011.

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COMMITTEE REPORT

Madam President: The Senate Committee on Health and Provider Services, to which was referred Senate Bill No. 295, 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 3, line 11, delete "." and insert "**and not licensed by the state department of health under IC 16-27 or IC 16-28.**".

Page 7, between lines 16 and 17, begin a new paragraph and insert:

"SECTION 8. IC 12-14-30 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]:

Chapter 30. Food Stamp Assistance for Individuals With Drug Convictions

Sec. 1. In accordance with 21 U.S.C. 862a(d)(1), the state elects to opt out of the application of 21 U.S.C. 862a(a) for individuals who meet the requirements of this chapter.

Sec. 2. Under this chapter, an individual is eligible for food stamps if the individual meets all the following requirements:

(1) The individual was convicted of an offense under IC 35-48 (controlled substances) for conduct occurring after August 22, 1996.

(2) Except for 21 U.S.C. 862a(a), the individual meets the federal and Indiana food stamp program requirements.

(3) The individual has not been convicted of another offense under IC 35-48 (controlled substances) in the five (5) years preceding the individual's application for food stamps assistance.".

Page 11, line 19, after "care." insert "**In adopting rules under this subdivision, the division shall consider a proposed rule's impact on reimbursement to a provider that is providing care.**".

Page 11, between lines 35 and 36, begin a new paragraph and insert:

"SECTION 12. IC 12-23-1-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 9. ~~One-third (1/3)~~ **(a) A part of the total amount** of the federal money earmarked for Drug Abuse and Alcohol Abuse/Alcoholics Efforts received for disbursement by the division shall be used for ~~treatment~~ **local** programs that ~~are not under the direction of a community mental health center or a state institution.~~ **provide prevention services and intervention and treatment services for individuals who:**

(1) have a primary diagnosis of chronic substance abuse and dependence; and

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(2) are without significant or immediate treatment needs for mental illness or serious emotional disturbance.

(b) The amount described in subsection (a) shall be distributed to specialty addiction providers that serve the eligible population to provide consumer choice based on outcomes determined by the division.

SECTION 13. IC 12-23-2-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 8. (a) ~~Except as provided in subsection (b),~~ For each state fiscal year, the division shall distribute ~~an amount equal to at least thirty-three percent (33%)~~ **a part** of the total amount received by the division from the addiction services fund established by section 2 of this chapter during the immediately preceding fiscal year to local programs that provide prevention services and intervention and treatment services for individuals who: ~~are:~~

~~(1) psychologically or physiologically dependent upon alcohol or other drugs; or~~

~~(2) psychologically dependent on gambling.~~

(1) have a primary diagnosis of chronic substance abuse and dependence; and

(2) are without significant or immediate treatment needs for mental illness or serious emotional disturbance.

(b) The amount described in subsection (a) ~~may not~~ **shall** be distributed to ~~a county home, a local mental health program established under IC 12-29, or a state institution.~~ **specialty addiction providers that serve the eligible population to provide consumer choice based on outcomes determined by the division.**".

Page 12, between lines 32 and 33, begin a new paragraph and insert:

"**(c) The division of mental health and addiction may not terminate normal patient care at a facility described in subsection (a)(1) or (a)(2) unless the termination is specifically authorized by a statute enacted by the general assembly or recommended by the council established by section 3.5 of this chapter.**".

Page 12, reset in roman lines 33 through 38.

Page 12, line 38, delete "." and insert "**or recommended by the council established by section 3.5 of this chapter.**

SECTION 15. IC 12-24-1-3.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 3.5. (a) The council on Evansville state hospitals is established.**

(b) The council consists of the following members:

(1) One (1) superior court judge having exclusive juvenile jurisdiction in Vanderburgh County, who shall act as

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chairperson of the council.

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

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

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

(B) must represent Evansville or a surrounding area.

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

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

(B) must represent Evansville or a surrounding area.

(5) Two (2) mental health providers that provide mental health services in the Evansville area.

(6) One (1) member who:

(A) resides in the Evansville area; and

(B) provides services in the community, including:

(i) law enforcement services; or

(ii) children's services.

(c) The president pro tempore of the senate shall make the appointment set forth in subsection (b)(1) and one (1) of the appointments in subsection (b)(5). The speaker of the house of representatives shall make one (1) of the appointments set forth in subsection (b)(5) and the appointment set forth in subsection (b)(6).

(d) The council has the following duties:

(1) Review the following:

(A) The mental health and addiction services available to children in the Evansville area.

(B) The quality of the care provided to patients in a facility described in section 3(a)(1) and 3(a)(2) of this chapter.

(C) The utilization of the facilities and the cause for any underutilization.

(2) Determine the viability and need for the facilities described in section 3(a)(1) and 3(a)(2) of this chapter.

(3) Provide recommendations to:

(A) the office of the secretary; and

(B) the general assembly, in electronic format under IC 5-14-6;

concerning the council's findings under this subsection, including whether the council is making a recommendation under section 3 of this chapter.

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(e) The division of mental health and addiction shall staff the council.

(f) The expenses of the council shall be paid by the division of mental health and addiction.

(g) A member of the council is not entitled to salary per diem or traveling expenses.

(h) The chairperson shall serve as a nonvoting member. The affirmative votes of a majority of the voting members of the council are required for the council to take action on any recommendation.

(i) This section expires December 31, 2012.".

Page 13, line 42, delete "IC 12-23-1-9; IC 12-23-2-8;".

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 295 as introduced.)

MILLER, Chairperson

Committee Vote: Yeas 9, Nays 0.

SENATE MOTION

Madam President: I move that Senate Bill 295 be amended to read as follows:

Page 15, between lines 4 and 5, begin a new line block indented and insert:

"**(7) The superintendent of the Evansville State Psychiatric Treatment Center for Children, or the superintendent's designee.**

(8) The superintendent of the Evansville State Hospital, or the superintendent's designee.

(9) One (1) representative of a statewide mental health association.

(10) One (1) parent of a child who has received services at the Evansville State Psychiatric Treatment Center for Children and who is not associated with the Evansville State Psychiatric Treatment Center for Children or the Evansville State Hospital except as a consumer.".

Page 15, line 6, after "(b)(1)" insert "**,**".

Page 15, line 6, delete "and".

Page 15, line 7, delete "." and insert "**, and the appointment set**

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forth in subsection (b)(9).".

Page 15, line 9, after "(b)(5)" insert "**,**".

Page 15, line 9, delete "and".

Page 15, line 9, delete "." and insert "**, and the appointment set forth in subsection (b)(10).**".

Page 15, line 33, after "chairperson" insert "**and the members described in subsections (b)(7) and (b)(8)**".

Page 15, line 33, delete "a nonvoting member." and insert "**nonvoting members.**".

(Reference is to SB 295 as printed January 29, 2010.)

LAWSON C

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