
SENATE BILL No. 88

DIGEST OF INTRODUCED BILL

Citations Affected: IC 5-20-1-2; IC 12-7-2; IC 12-10; IC 12-10.5-2-4; IC 12-21; IC 12-22; IC 12-23-1-9; IC 12-24-19; IC 12-26-14-4; IC 12-29-2-13.

Synopsis: Various mental health issues. Changes the allocation of federal aid used for drug abuse and alcohol abuse used for local programs. Redefines the services provided by community mental health centers and specifies that instead of a continuum of care, services are to be provided. Removes the authority of the division of mental health and addiction (DMHA) to license respite care. Changes elements of community based residential programs. Eliminates the duty of DMHA to submit a biennial report to the governor and the legislative council on the evaluation of the continuum of care. Makes conforming changes. Repeals: (1) respite care for persons with mental illness; (2) listing of elements of community residential programs; (3) children's mental health bureau; (4) certain placement provisions for community residential facilities; and (5) definitions made obsolete by the bill. (The introduced version of this bill was prepared by the Commission on Mental Health.)

Effective: July 1, 2011.

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January 5, 2011, read first time and referred to Committee on Health and Provider Services.

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First Regular Session 117th General Assembly (2011)

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 2010 Regular Session of the General Assembly.

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SENATE BILL No. 88



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

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

1 SECTION 1. IC 5-20-1-2, AS AMENDED BY P.L.99-2007,
2 SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2011]: Sec. 2. As used in this chapter:

- 4 "Assisted" means, with respect to a loan:
 - 5 (1) the payment by the United States or any duly authorized
 - 6 agency of the United States of assistance payments, interest
 - 7 payments, or mortgage reduction payments with respect to such
 - 8 loan; or
 - 9 (2) the provision of insurance, guaranty, security, collateral,
 - 10 subsidies, or other forms of assistance or aid acceptable to the
 - 11 authority for the making, holding, or selling of a loan from the
 - 12 United States, any duly authorized agency of the United States, or
 - 13 any entity or corporation acceptable to the authority, other than
 - 14 the sponsor.

15 "Authority" means the Indiana housing and community development
16 authority created by section 3 of this chapter.

17 "Bonds" or "notes" means the bonds or notes authorized to be issued



1 by the authority under this chapter.

2 **"Community based residential programs" refers to programs**
3 **developed by the division of mental health and addiction under**
4 **IC 12-22-2-3.5.**

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

- 10 (1) payments for options to purchase properties on the proposed
- 11 residential housing site, deposits on contracts of purchase, or,
- 12 with prior approval of the authority, payments for the purchase of
- 13 such properties;
- 14 (2) legal, organizational, and marketing expenses, including
- 15 payments of attorney's fees, project manager, clerical, and other
- 16 incidental expenses;
- 17 (3) payment of fees for preliminary feasibility studies and
- 18 advances for planning, engineering, and architectural work;
- 19 (4) expenses for surveys as to need and market analyses;
- 20 (5) necessary application and other fees;
- 21 (6) credits allowed by the authority to recognize the value of
- 22 service provided at no cost by the sponsors, builders, or
- 23 developers; and
- 24 (7) such other expenses as the authority deems appropriate for the
- 25 purposes of this chapter.

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

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

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

- 35 (1) the rehabilitation, acquisition, or construction of single family
- 36 residential housing, including land development; or
- 37 (2) the weatherization of single family residences.

38 "Mortgage lender" means a bank, trust company, savings bank,
39 savings association, credit union, national banking association, federal
40 savings association or federal credit union maintaining an office in this
41 state, a public utility (as defined in IC 8-1-2-1), a gas utility system
42 organized under IC 8-1-11.1, an insurance company authorized to do

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1 business in this state, or any mortgage banking firm or mortgagee
2 authorized to do business in this state and approved by either the
3 authority or the Department of Housing and Urban Development.

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

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

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

- 19 (1) The amount of total income of such persons and families
20 available for housing needs.
- 21 (2) The size of the family.
- 22 (3) The cost and condition of housing facilities available in the
23 different geographic areas of the state.
- 24 (4) The ability of such persons and families to compete
25 successfully in the private housing market and to pay the amounts
26 at which private enterprise is providing sanitary, decent, and safe
27 housing.

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

30 "Residential facility for children" means a facility:

- 31 (1) that provides residential services to individuals who are:
 - 32 (A) under twenty-one (21) years of age; and
 - 33 (B) adjudicated to be children in need of services under
34 IC 31-34 (or IC 31-6-4 before its repeal) or delinquent children
35 under IC 31-37 (or IC 31-6-4 before its repeal); and
- 36 (2) that is:
 - 37 (A) a child caring institution that is or will be licensed under
38 IC 31-27;
 - 39 (B) a residential facility that is or will be licensed under
40 IC 12-28-5; or
 - 41 (C) a facility that is or will be certified by the division of
42 mental health and addiction under IC 12-23.

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

4 "~~Residential facility for persons with a mental illness~~" means a
5 facility that is approved by the division of mental health and addiction
6 for use in a community residential program for the mentally ill under
7 ~~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).~~

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

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

20 "State" means the state of Indiana.

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

- 24 (1) Counseling on household management, housekeeping,
25 budgeting, and money management.
- 26 (2) Child care and similar matters.
- 27 (3) Access to available community services related to job training
28 and placement, education, health, welfare, and other community
29 services.
- 30 (4) Guard and other matters related to the physical security of the
31 housing residents.
- 32 (5) Effective management-tenant relations, including tenant
33 participation in all aspects of housing administration,
34 management, and maintenance.
- 35 (6) Physical improvements of the housing, including buildings,
36 recreational and community facilities, safety measures, and
37 removal of code violations.
- 38 (7) Advisory services for tenants in the creation of tenant
39 organizations which will assume a meaningful and responsible
40 role in the planning and carrying out of housing affairs.
- 41 (8) Procedures whereby tenants, either individually or in a group,
42 may be given a hearing on questions relating to management

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1 policies and practices either in general or in relation to an
2 individual or family.

3 SECTION 2. IC 12-7-2-25 IS AMENDED TO READ AS
4 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 25. "Case
5 management", means the following:

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

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

10 SECTION 3. IC 12-7-2-40 IS AMENDED TO READ AS
11 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 40. "Community based
12 residential program", for purposes of IC 12-22-2, refers to the programs
13 described in ~~IC 12-22-2-3~~: **IC 12-22-2-3.5.**

14 SECTION 4. IC 12-7-2-40.6 IS AMENDED TO READ AS
15 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 40.6. (a) "Continuum
16 of care" means a range of services: ~~the provision of which is assured by~~
17 ~~a community mental health center or a managed care provider.~~ The
18 term includes the following:

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

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

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

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

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

28 (6) Residential services.

29 (7) Day treatment.

30 (8) Family support services.

31 (9) Medication evaluation and monitoring.

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

34 (1) defined by the division in rules adopted under IC 4-22-2 to
35 provide a comprehensive continuum of care by a community
36 mental health center or other provider; and

37 (2) based on recovery focused models of care and that are
38 intended to meet the individual treatment needs of the
39 behavioral health consumer.

40 (b) The continuum of care may include the following services:

41 (1) Wellness programs.

42 (2) Engagement services.

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- 1 **(3) Outpatient and inpatient services.**
- 2 **(4) Rehabilitative and habilitative services.**
- 3 **(5) Residential care and supported housing.**
- 4 **(6) Acute intensive services.**

5 **All services must support prevention and treatment of mental**
 6 **health and addiction for all populations.**

7 SECTION 5. IC 12-7-2-117.6, AS ADDED BY P.L.99-2007,
 8 SECTION 45, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 9 JULY 1, 2011]: Sec. 117.6. "Individual with a mental illness", for
 10 purposes of IC 12-21-2 ~~to 12-22-1~~, and IC 12-24-17, means an
 11 individual who:

- 12 (1) has a psychiatric disorder that substantially impairs the
- 13 individual's mental health; and
- 14 (2) requires care, treatment, training, or detention:
 - 15 (A) because of the psychiatric disorder; or
 - 16 (B) for the welfare of the individual or others of the
 - 17 community in which the individual resides.

18 SECTION 6. IC 12-7-2-127 IS AMENDED TO READ AS
 19 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 127. ~~(a)~~ "Managed care
 20 provider", for purposes of IC 12-14-1 through IC 12-14-9.5 and
 21 IC 12-15 (except IC 12-15-21, IC 12-15-33, and IC 12-15-34) means
 22 either of the following:

- 23 (1) A physician licensed under IC 25-22.5 who:
 - 24 (A) is primarily engaged in general practice, family practice,
 - 25 internal medicine, pediatric medicine, or obstetrics and
 - 26 gynecology; and
 - 27 (B) has entered into a provider agreement for the provision of
 - 28 physician services under IC 12-15-11-4.
- 29 (2) A partnership, corporation, or other entity that:
 - 30 (A) employs or contracts with physicians licensed under
 - 31 IC 25-22.5 who are primarily engaged in general practice,
 - 32 family practice, internal medicine, pediatric medicine, or
 - 33 obstetrics and gynecology; and
 - 34 (B) has entered into a provider agreement for the provision of
 - 35 physician services under IC 12-15-11-4.

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

- 38 ~~(1) that:~~
 - 39 ~~(A) for mental health services, is defined under 42 U.S.C.~~
 - 40 ~~300x-2(c);~~
 - 41 ~~(B) provides addiction services; or~~
 - 42 ~~(C) provides children's mental health services;~~

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- 1 (2) that has entered into a provider agreement with the division of
- 2 mental health and addiction under IC 12-21-2-7 to provide a
- 3 continuum of care in the least restrictive, most appropriate
- 4 setting; and
- 5 (3) that is operated by at least one (1) of the following:
- 6 (A) A city, town, county, or other political subdivision of
- 7 Indiana;
- 8 (B) An agency of Indiana or of the United States;
- 9 (C) A political subdivision of another state;
- 10 (D) A hospital owned or operated by:
- 11 (i) a unit of government; or
- 12 (ii) a building authority that is organized for the purpose of
- 13 constructing facilities to be leased to units of government;
- 14 (E) A corporation incorporated under IC 23-7-1.1 (before its
- 15 repeal August 1, 1991) or IC 23-17;
- 16 (F) An organization that is exempt from federal income
- 17 taxation under Section 501(c)(3) of the Internal Revenue
- 18 Code;
- 19 (G) A university or college.

20 SECTION 7. IC 12-7-2-149.1, AS AMENDED BY P.L.145-2006,
 21 SECTION 57, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 22 JULY 1, 2011]: Sec. 149.1. "Provider" means the following:

- 23 (1) For purposes of IC 12-10-7, the meaning set forth in
- 24 IC 12-10-7-3.
- 25 (2) For purposes of the following statutes, an individual, a
- 26 partnership, a corporation, or a governmental entity that is
- 27 enrolled in the Medicaid program under rules adopted under
- 28 IC 4-22-2 by the office of Medicaid policy and planning:
- 29 (A) IC 12-14-1 through IC 12-14-9.5.
- 30 (B) IC 12-15, except IC 12-15-32, IC 12-15-33, and
- 31 IC 12-15-34.
- 32 (C) IC 12-17.6.
- 33 (3) Except as provided in subdivision (4), for purposes of
- 34 IC 12-17.2, a person who operates a child care center or child care
- 35 home under IC 12-17.2.
- 36 (4) For purposes of IC 12-17.2-3.5, a person that:
- 37 (A) provides child care; and
- 38 (B) is directly paid for the provision of the child care under the
- 39 federal Child Care and Development Fund voucher program
- 40 administered under 45 CFR 98 and 45 CFR 99.

41 The term does not include an individual who provides services to
 42 a person described in clauses (A) and (B), regardless of whether

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the individual receives compensation.

(5) For purposes of IC 12-21-1 through IC 12-29-2, an organization:

(A) that:

(i) provides mental health services, as defined under 42 U.S.C. 300x-2(c);

(ii) provides addiction services; or

(iii) provides children's mental health services;

(B) that has entered into a provider agreement with the division of mental health and addition under IC 12-21-2-7 to provide services in the least restrictive, most appropriate setting; and

(C) that is operated by one (1) of the following:

(i) A city, town, county, or other political subdivision of the state.

(ii) An agency of the state or of the United States.

(iii) A political subdivision of another state.

(iv) A hospital owned or operated by a unit of government or a building authority that is organized for the purpose of constructing facilities to be leased to units of government.

(v) A corporation incorporated under IC 23-7-1.1 (before its repeal August 1, 1991) or IC 23-17.

(vi) An organization that is exempt from federal income taxation under Section 501(c)(3) of the Internal Revenue Code.

(vii) A university or college.

SECTION 8. IC 12-7-2-165, AS AMENDED BY P.L.99-2007, SECTION 49, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 165. "Residential facility", for purposes of IC 12-28-4 and IC 12-28-5, refers to a residential facility for individuals with a developmental disability. ~~or a residential facility for individuals with a mental illness.~~

SECTION 9. IC 12-7-2-168 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 168. "Respite care" means, ~~the following:~~

(1) for purposes of IC 12-10-4 and IC 12-10-5, temporary care or supervision of an individual with Alzheimer's disease or a related senile dementia that is provided because the individual's family or caretaker is temporarily unable or unavailable to provide needed care.

(2) For purposes of IC 12-22-1, the meaning set forth in

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~~IC 12-22-1-1.~~

SECTION 10. IC 12-10-6-2.1, AS AMENDED BY P.L.121-2008, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: 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;
- (4) can be adequately cared for in a residential care setting; and
- (5) has not made any asset transfer prohibited under the state plan or in 42 U.S.C. 1396p(c) in order to be eligible for Medicaid.

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

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

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

If the service coordinator determines the person evaluated under this subsection 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

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1 referred to in this section and licensed under IC 16-28 may not exceed
2 an upper rate limit established by a rule adopted by the division. The
3 recipient may retain from the recipient's income a monthly personal
4 allowance of fifty-two dollars (\$52). This amount is exempt from
5 income eligibility consideration by the division and may be exclusively
6 used by the recipient for the recipient's personal needs. However, if the
7 recipient's income is less than the amount of the personal allowance,
8 the division shall pay to the recipient the difference between the
9 amount of the personal allowance and the recipient's income. A reserve
10 or an accumulated balance from such a source, together with other
11 sources, may not be allowed to exceed the state's resource allowance
12 allowed for adults eligible for state supplemental assistance or
13 Medicaid as established by the rules of the office of Medicaid policy
14 and planning.

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

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

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

39 (h) The personal allowance for one (1) month for an individual
40 described in subsection (a) is the amount that an individual would be
41 entitled to retain under subsection (d) plus an amount equal to one-half
42 (1/2) of the remainder of:

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- 1 (1) gross earned income for that month; minus
- 2 (2) the sum of:
- 3 (A) sixteen dollars (\$16); plus
- 4 (B) the amount withheld from the person's paycheck for that
- 5 month for payment of state income tax, federal income tax,
- 6 and the tax prescribed by the federal Insurance Contribution
- 7 Act (26 U.S.C. 3101 et seq.); plus
- 8 (C) transportation expenses for that month; plus
- 9 (D) any mandatory expenses required by the employer as a
- 10 condition of employment.

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

14 (j) The director of the division may contract with the division of
 15 mental health and addiction or the division of disability and
 16 rehabilitative services to purchase services for individuals with a
 17 mental illness or a developmental disability by providing money to
 18 supplement the appropriation for community **based** residential care
 19 programs established under IC 12-22-2 or community **based** residential
 20 programs established under IC 12-11-1.1-1.

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

25 SECTION 11. IC 12-10-11-8, AS AMENDED BY P.L.99-2007,
 26 SECTION 65, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 27 JULY 1, 2011]: Sec. 8. The board shall do the following:

- 28 (1) Establish long term goals of the state for the provision of a
- 29 continuum of care for the elderly and individuals with a disability
- 30 based on the following:
- 31 (A) Individual independence, dignity, and privacy.
- 32 (B) Long term care services that are:
- 33 (i) integrated, accessible, and responsible; and
- 34 (ii) available in home and community settings.
- 35 (C) Individual choice in planning and managing long term
- 36 care.
- 37 (D) Access to an array of long term care services:
- 38 (i) for an individual to receive care that is appropriate for the
- 39 individual's needs; and
- 40 (ii) to enable a case manager to have cost effective
- 41 alternatives available in the construction of care plans and
- 42 the delivery of services.

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- 1 (E) Long term care services that include home care,
- 2 community based services, assisted living, congregate care,
- 3 adult foster care, and institutional care.
- 4 (F) Maintaining an individual's dignity and self-reliance to
- 5 protect the fiscal interests of both taxpayers and the state.
- 6 (G) Long term care services that are fiscally sound.
- 7 **(H) Services that:**
- 8 **(i) promote behavioral health; and**
- 9 **(ii) prevent and treat mental illness and addiction.**
- 10 (2) Review state policies on community and home care services.
- 11 (3) Recommend the adoption of rules under IC 4-22-2.
- 12 (4) Recommend legislative changes affecting community and
- 13 home care services.
- 14 (5) Recommend the coordination of the board's activities with the
- 15 activities of other boards and state agencies concerned with
- 16 community and home care services.
- 17 (6) Evaluate cost effectiveness, quality, scope, and feasibility of
- 18 a state administered system of community and home care
- 19 services.
- 20 (7) Evaluate programs for financing services to those in need of
- 21 a continuum of care.
- 22 (8) Evaluate state expenditures for community and home care
- 23 services, taking into account efficiency, consumer choice,
- 24 competition, and equal access to providers.
- 25 (9) Develop policies that support the participation of families and
- 26 volunteers in meeting the long term care needs of individuals.
- 27 (10) Encourage the development of funding for a continuum of
- 28 care from private resources, including insurance.
- 29 (11) Develop a cost of services basis and a program of cost
- 30 reimbursement for those persons who can pay all or a part of the
- 31 cost of the services rendered. The division shall use this cost of
- 32 services basis and program of cost reimbursement in
- 33 administering IC 12-10-10. The cost of services basis and
- 34 program of cost reimbursement must include a client cost share
- 35 formula that:
- 36 (A) imposes no charges for an eligible individual whose
- 37 income does not exceed one hundred fifty percent (150%) of
- 38 the federal income poverty level; and
- 39 (B) does not impose charges for the total cost of services
- 40 provided to an individual under the community and home
- 41 options to institutional care for the elderly and disabled
- 42 program unless the eligible individual's income exceeds three

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- 1 hundred fifty percent (350%) of the federal income poverty
- 2 level.
- 3 The calculation of income for an eligible individual must include
- 4 the deduction of the individual's medical expenses and the
- 5 medical expenses of the individual's spouse and dependent
- 6 children who reside in the eligible individual's household.
- 7 (12) Establish long term goals for the provision of guardianship
- 8 services for adults.
- 9 (13) Coordinate activities and programs with the activities of
- 10 other boards and state agencies concerning the provision of
- 11 guardianship services.
- 12 (14) Recommend statutory changes affecting the guardianship of
- 13 indigent adults.
- 14 (15) Review a proposed rule concerning home and community
- 15 based services as required under section 9 of this chapter.

16 SECTION 12. IC 12-10.5-2-4 IS ADDED TO THE INDIANA
 17 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
 18 [EFFECTIVE JULY 1, 2011]: **Sec. 4. The continuum of care**
 19 **provided under this article must include services that support**
 20 **prevention and treatment of mental illness and addiction.**

21 SECTION 13. IC 12-21-2-3, AS AMENDED BY P.L.99-2007,
 22 SECTION 100, IS AMENDED TO READ AS FOLLOWS
 23 [EFFECTIVE JULY 1, 2011]: Sec. 3. (a) In addition to the general
 24 authority granted to the director under IC 12-8-8, the director shall do
 25 the following:

- 26 (1) Organize the division, create the appropriate personnel
- 27 positions, and employ personnel necessary to discharge the
- 28 statutory duties and powers of the division or a bureau of the
- 29 division.
- 30 (2) Subject to the approval of the state personnel department,
- 31 establish personnel qualifications for all deputy directors,
- 32 assistant directors, bureau heads, and superintendents.
- 33 (3) Subject to the approval of the budget director and the
- 34 governor, establish the compensation of all deputy directors,
- 35 assistant directors, bureau heads, and superintendents.
- 36 (4) Study the entire problem of mental health, mental illness, and
- 37 addictions existing in Indiana.
- 38 (5) Adopt rules under IC 4-22-2 for the following:
- 39 (A) Standards for the operation of private institutions that are
- 40 licensed under IC 12-25 for the diagnosis, treatment, and care
- 41 of individuals with psychiatric disorders, addictions, or other
- 42 abnormal mental conditions.

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- 1 ~~(B)~~ Licensing supervised group living facilities described in
- 2 IC 12-22-2-3 for individuals with a mental illness.
- 3 ~~(C)~~ Certifying community residential programs described in
- 4 IC 12-22-2-3 for individuals with a mental illness.
- 5 **(B) Licensing or certifying community residential**
- 6 **programs described in IC 12-22-2-3.5 for individuals with**
- 7 **serious mental illness (SMI), serious emotional disturbance**
- 8 **(SED), or chronic addiction (CA) with the exception of**
- 9 **psychiatric residential treatment facilities.**
- 10 ~~(D)~~ ~~(C)~~ Certifying community mental health centers to operate
- 11 in Indiana.
- 12 ~~(E)~~ **(D)** Establish exclusive geographic primary service areas
- 13 for community mental health centers. The rules must include
- 14 the following:
- 15 (i) Criteria and procedures to justify the change to the
- 16 boundaries of a community mental health center's primary
- 17 service area.
- 18 (ii) Criteria and procedures to justify the change of an
- 19 assignment of a community mental health center to a
- 20 primary service area.
- 21 (iii) A provision specifying that the criteria and procedures
- 22 determined in items (i) and (ii) must include an option for
- 23 the county and the community mental health center to
- 24 initiate a request for a change in primary service area or
- 25 provider assignment.
- 26 (iv) A provision specifying the criteria and procedures
- 27 determined in items (i) and (ii) may not limit an eligible
- 28 consumer's right to choose or access the services of any
- 29 provider who is certified by the division of mental health
- 30 and addiction to provide public supported mental health
- 31 services.
- 32 (6) Institute programs, in conjunction with an accredited college
- 33 or university and with the approval, if required by law, of the
- 34 commission for higher education, for the instruction of students
- 35 of mental health and other related occupations. The programs may
- 36 be designed to meet requirements for undergraduate and
- 37 postgraduate degrees and to provide continuing education and
- 38 research.
- 39 (7) Develop programs to educate the public in regard to the
- 40 prevention, diagnosis, treatment, and care of all abnormal mental
- 41 conditions.
- 42 (8) Make the facilities of the Larue D. Carter Memorial Hospital

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1 available for the instruction of medical students, student nurses,
 2 interns, and resident physicians under the supervision of the
 3 faculty of the Indiana University School of Medicine for use by
 4 the school in connection with research and instruction in
 5 psychiatric disorders.

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

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

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

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

18 ~~(A) long term care service settings; and~~

19 ~~(B) state operated long term care inpatient beds;~~

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

25 ~~(13) (12) Compile information and statistics concerning the~~
 26 ~~ethnicity and gender of a program or service recipient.~~

27 ~~(14) (13) Establish standards for each element of the continuum~~
 28 ~~of care services described in IC 12-7-2-40.6 for community~~
 29 ~~mental health centers and managed care other providers.~~

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

32 ~~(1) The anticipated duration of the patient's mental health setting~~
 33 ~~is more than twelve (12) months.~~

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

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

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

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

39 ~~and~~

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

41 ~~(4) Crisis care is available.~~

42 ~~(c) Funding for services under subsection (a)(12) shall be provided~~

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

4 SECTION 14. IC 12-21-2-8, AS AMENDED BY P.L.99-2007,
5 SECTION 102, IS AMENDED TO READ AS FOLLOWS
6 [EFFECTIVE JULY 1, 2011]: Sec. 8. (a) The director shall develop a
7 comprehensive system of monitoring, evaluation, and quality assurance
8 for the ~~continuum of care~~ services required by this chapter.

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

- 11 (1) The continuity of services a contractor provides for patients.
- 12 (2) The accessibility of a contractor's services to patients.
- 13 (3) The acceptability of a contractor's services to patients.
- 14 (4) A contractor's ability to focus services on building the
15 self-sufficiency of the patient.

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

- 21 (1) serve individuals with a mental illness or substance abuse
22 patients; and
- 23 (2) are subject to quality and safety standards and laws.

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

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

- 28 (1) Specify:
 - 29 (A) the work to be performed; and
 - 30 (B) the patient populations to whom services must be
31 provided.
- 32 (2) Provide for a reduction in funding or termination of the
33 contract for failure to comply with terms of the contract.
- 34 (3) Require that the contractor meet the standards set forth in
35 rules adopted by the division of mental health and addiction under
36 IC 4-22-2.
- 37 (4) Require that the contractor participate in the division's
38 evaluation process.
- 39 (5) For any service for which the division chooses to contract on
40 a per diem basis, the per diem reimbursement shall be determined
41 under subsection (c) for the contractor's reasonable cost of
42 providing services.

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

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

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

8 (7) Provide that a contract for enumerated services granted by the
9 division under this section to an approved ~~managed care~~ provider
10 may not create or confer upon the ~~managed care~~ provider liability
11 or responsibility for care or services beyond those services
12 supported by the contract.

13 SECTION 15. IC 12-21-5-1.5 IS AMENDED TO READ AS
14 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 1.5. The division shall
15 do the following:

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

20 (A) A patient's income.

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

22 (C) A patient's prognosis.

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

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

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

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

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

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

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- funds.
- (5) Ensure compliance with all other performance criteria set forth in a provider contract. In addition to the requirements set forth in IC 12-21-2-7, a provider contract must include the following:
 - (A) A requirement that the standards and criteria used in the evaluation of care plans be available and accessible to the patient.
 - (B) A requirement that the provider involve the patient in the choice of and preparation of the treatment plan to the greatest extent feasible.
 - (C) A provision encouraging the provider to intervene in a patient's situation as early as possible, balancing the patient's right to liberty with the need for treatment.
 - (D) A requirement that the provider set up and implement an internal appeal process for the patient.
- (6) Establish a toll free telephone number that operates during normal business hours for individuals to make comments to the division in a confidential manner regarding services or service providers.
- (7) Develop a confidential system to evaluate complaints and patient appeals received by the division of mental health and addiction and to take appropriate action regarding the results of an investigation. A ~~managed care~~ provider is entitled to request and to have a hearing before information derived from the investigation is incorporated into the provider's profile. Information contained within the provider profile is subject to inspection and copying under IC 5-14-3-3.
- (8) ~~Submit a biennial report to the governor and legislative council that includes an evaluation of the continuum of care. A report submitted under this subdivision to the legislative council must be in an electronic format under IC 5-14-6.~~
- (9) ~~Conduct an actuarial analysis every four (4) years beginning July 1, 2000.~~
- (10) ~~Annually determine sufficient rates to be paid for services contracted with managed care providers who are awarded a contract under IC 12-21-2-7.~~
- (11) ~~Take actions necessary to assure the quality of services required by the continuum of care under this chapter.~~
- (12) ~~Incorporate the results from the actuarial analysis in subdivision (9) to fulfill the responsibilities of this section.~~

SECTION 16. IC 12-22-2-3.5 IS ADDED TO THE INDIANA

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1 CODE AS A NEW SECTION TO READ AS FOLLOWS
 2 [EFFECTIVE JULY 1, 2011]: **Sec. 3.5. Community based residential**
 3 **programs include a broad range of living arrangements designed**
 4 **to meet the unique needs of individuals with behavioral health**
 5 **disorders in integrated settings and described in rules adopted by**
 6 **the division under IC 4-22-2.**

7 SECTION 17. IC 12-22-2-5 IS AMENDED TO READ AS
 8 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 5. To the extent that
 9 programs described in ~~section 3~~ **section 3.5** of this chapter are
 10 available and meet an individual's needs, an individual should be
 11 placed in a program that is the least restrictive.

12 SECTION 18. IC 12-22-2-11, AS AMENDED BY P.L.99-2007,
 13 SECTION 114, IS AMENDED TO READ AS FOLLOWS
 14 [EFFECTIVE JULY 1, 2011]: Sec. 11. (a) An entity, **other than a**
 15 **psychiatric residential treatment facility**, may not:

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

17 (2) hold itself out as operating;

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

19 (B) a group home for individuals with a mental illness;

20 **operate or hold itself out as operating a group home for individuals**
 21 **with serious mental illness (SMI), serious emotional disturbance**
 22 **(SED), or chronic addiction (CA) unless the entity is licensed or**
 23 **certified by the division of mental health and addiction: the entity is**
 24 **licensed or certified by the division.**

25 (b) The division of mental health and addiction shall investigate a
 26 report of:

27 (1) an unlicensed facility housing a community residential
 28 program described in ~~section 3(1), 3(2), and 3(3)~~ **section 3.5** of
 29 this chapter;

30 (2) an uncertified operator of a community residential program
 31 described in ~~section 3(1), 3(2), and 3(3)~~ **section 3.5** of this
 32 chapter; or

33 (3) a licensed or certified entity's noncompliance with this article;
 34 and report the division's findings to the attorney general.

35 (c) The attorney general may do the following:

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

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

41 (A) the facility or the operator of a community residential
 42 program described in subsection (b) is operating without a

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- 1 required license or certification; or
 2 (B) a licensed or certified entity's actions or omissions create
 3 an immediate danger of serious bodily injury to an individual
 4 with a mental illness or an imminent danger to the health of an
 5 individual with a mental illness.
 6 (3) Seek in a civil action a civil penalty of not more than one
 7 hundred dollars (\$100) a day for each day a facility is operating:
 8 (A) without a license or certification required by law; or
 9 (B) with a license or certification required under this chapter,
 10 but is not in compliance with this article, IC 12-21-2-3, or
 11 rules adopted under this article or IC 12-21-2-3.
 12 (d) The division of mental health and addiction may provide for the
 13 removal of individuals with a mental illness from facilities for
 14 individuals with a mental illness described in subsection (c).
 15 (e) There must be an opportunity for an informal meeting with the
 16 division of mental health and addiction after injunctive relief is ordered
 17 under this section.
 18 (f) The civil penalties collected under this section must be deposited
 19 in the mental health centers fund (IC 6-7-1-32.1).
 20 SECTION 19. IC 12-23-1-9 IS AMENDED TO READ AS
 21 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 9. ~~One-third (1/3)~~ **(a)**
 22 **A part of the total amount** of the federal money earmarked for Drug
 23 Abuse and Alcohol Abuse/Alcoholics Efforts received for
 24 disbursement by the division shall be used for ~~treatment~~ **local** programs
 25 that are not under the direction of a community mental health center or
 26 a state institution. **provide prevention, intervention, or treatment**
 27 **services for individuals who:**
 28 **(1) have a primary diagnosis of chronic substance abuse and**
 29 **dependence; and**
 30 **(2) are without significant or immediate treatment needs for**
 31 **mental illness or serious emotional disturbance.**
 32 **(b) The amount designated in subsection (a) shall be distributed**
 33 **to specialty addiction providers that serve the eligible population**
 34 **to provide consumer choice based on outcomes determined by the**
 35 **division.**
 36 SECTION 20. IC 12-24-19-4 IS AMENDED TO READ AS
 37 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 4. Within the limits of
 38 appropriated funds, the division shall provide by written contract a
 39 continuum of care in the community for appropriate patients who are
 40 discharged or transferred under this chapter that does the following:
 41 (1) Integrates services.
 42 (2) Facilitates provision of appropriate services to patients.

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1 (3) Ensures continuity of care ~~including case management~~, so that
2 a patient is not discharged or transferred without adequate and
3 appropriate community services.

4 **(4) Provides services that:**
5 **(A) promote behavioral health; and**
6 **(B) prevent and treat mental illness and addiction.**

7 SECTION 21. IC 12-26-14-4 IS AMENDED TO READ AS
8 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 4. (a) If a staff member
9 of a program involved in the treatment, supervision, or care of an
10 individual ordered to enter an outpatient therapy program under section
11 1 of this chapter has reason to believe that the individual has failed to
12 comply with the requirements of section 3 of this chapter, the staff
13 member shall immediately notify the court of the failure to comply.

14 (b) Except as provided in subsection (c), the individual may be
15 transferred from the outpatient therapy program to one (1) of the
16 following:

17 (1) The inpatient unit of the facility that has the original
18 commitment.

19 ~~(2) A supervised group living program (as defined in~~
20 ~~IC 12-22-2-3(2)).~~

21 ~~(3) A sub-acute stabilization facility.~~
22 **(2) A community based residential program under**
23 **IC 12-22-2-3.5.**

24 (c) The individual may not be transferred to a ~~supervised group~~
25 ~~living program or a sub-acute stabilization facility~~ **community based**
26 **residential program under IC 12-22-2-3.5** unless in the opinion of
27 the individual's attending physician:

28 (1) it is not necessary for the individual to receive acute care
29 inpatient treatment; and

30 (2) the individual is in need of ~~either a supervised group living~~
31 ~~program or a sub-acute stabilization facility.~~ **community based**
32 **residential program under IC 12-22-2-3.5.**

33 (d) The individual may not be imprisoned or confined in a jail or
34 correctional facility unless the individual has been placed under arrest.

35 (e) A facility to which an individual is transferred under subsection
36 (b) shall immediately notify the court of the transfer. A transfer to a
37 facility under subsection (b) is subject to review under section 6 of this
38 chapter upon petition by the individual who was transferred.

39 SECTION 22. IC 12-29-2-13, AS AMENDED BY P.L.99-2007,
40 SECTION 151, IS AMENDED TO READ AS FOLLOWS
41 [EFFECTIVE JULY 1, 2011]: Sec. 13. (a) This section applies to Lake
42 County.

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1 (b) In addition to any other appropriation under this article, the
 2 county annually may fund each center serving the county from the
 3 county's general fund in an amount not exceeding the following:
 4 (1) For 2004, the product of the amount determined under section
 5 2(b)(1) of this chapter multiplied by seven hundred fifty-two
 6 thousandths (0.752).
 7 (2) For 2005 and each year thereafter, the product of the amount
 8 determined under section 2(b)(2) of this chapter for that year
 9 multiplied by seven hundred fifty-two thousandths (0.752).
 10 (c) The receipts from the tax levied under this section shall be used
 11 for the leasing, purchasing, constructing, or operating of **facilities for**
 12 community **based** residential **facilities programs** for individuals with
 13 a mental illness (as defined in ~~IC 12-7-2-167~~; **IC 12-7-2-40**).
 14 (d) Money appropriated under this section must be:
 15 (1) budgeted under IC 6-1.1-17; and
 16 (2) included in the center's budget submitted to the division of
 17 mental health and addiction.
 18 (e) Permission for a levy increase in excess of the levy limitations
 19 may be ordered under IC 6-1.1-18.5-15 only if the levy increase is
 20 approved by the division of mental health and addiction for a
 21 community mental health center.
 22 SECTION 23. THE FOLLOWING ARE REPEALED [EFFECTIVE
 23 JULY 1, 2011]: IC 12-7-2-188.7; IC 12-22-1; IC 12-22-2-3;
 24 IC 12-22-2-4; IC 12-22-2-6; IC 12-22-2-7; IC 12-22-2-8; IC 12-22-2-9;
 25 IC 12-22-2-10; IC 12-22-3; IC 12-24-19-2.

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