



January 28, 2011

SENATE BILL No. 88

DIGEST OF SB 88 (Updated January 26, 2011 2:15 pm - DI 104)

Citations Affected: IC 5-20; IC 11-10; IC 12-7; IC 12-10; IC 12-10.5; IC 12-21; IC 12-22; IC 12-23; IC 12-24; IC 12-26; IC 12-29.

Synopsis: Various mental health issues. Renames the commission on mental health to the commission on mental health and addiction, changes qualifications of certain commission members, removes per diem for lay members of the commission, and extends the commission until June 30, 2016. 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: Upon passage; July 1, 2011.

Lawson C, Miller, Simpson, Skinner

January 5, 2011, read first time and referred to Committee on Health and Provider Services.
January 27, 2011, amended, reported favorably — Do Pass.

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SB 88—LS 6199/DI 14+



January 28, 2011

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

SB 88—LS 6199/DI 14+



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 11-10-4-6.6, AS ADDED BY P.L.170-2009,
 4 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 5 JULY 1, 2011]: Sec. 6.6. (a) As used in this section, "advisory
 6 committee" refers to the mental health corrections quality advisory
 7 committee established by subsection (b).

8 (b) The mental health corrections quality advisory committee is
 9 established. The advisory committee consists of the following
 10 members:

11 (1) The commissioner of the department or the commissioner's
 12 designee, who shall serve as chairperson of the advisory
 13 committee.

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

16 (3) A representative of a statewide mental health advocacy
 17 organization.

18 (4) A representative of a statewide mental health provider
 19 organization.

20 (5) A representative from a medical services organization that
 21 participates in the department's medical services program.

22 (6) A member with expertise in psychiatric research representing
 23 a postsecondary educational institution.

24 (7) A pharmacist licensed under IC 25-26 with expertise in mental
 25 health disorders.

26 The governor shall make the appointments under subdivisions (3)
 27 through (7) for a term of four (4) years and fill any vacancy on the
 28 advisory committee.

29 (c) The affirmative votes of a majority of the voting members
 30 appointed to the advisory committee are required for the committee to
 31 take action on any measure.

32 (d) The advisory committee shall advise the department and make
 33 recommendations concerning the department's formulary for
 34 medications for mental health and addictive disorders and consider the
 35 following:

36 (1) Peer reviewed medical literature.

37 (2) Observational studies.

38 (3) Health economic studies.

39 (4) Input from physicians and patients.

40 (5) Any other information determined by the advisory committee
 41 to be appropriate.

42 (e) The department shall report recommendations made by the

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1 advisory committee to the department's medical director.

2 (f) The department shall report the following information to the
3 Indiana commission on mental health **and addiction** (IC 12-21-6.5-2):

4 (1) The advisory committee's advice and recommendations made
5 under this section.

6 (2) The number and types of restrictions implemented by the
7 department and the outcome of each restriction.

8 (3) The transition of individuals with mental illness into the
9 community and the rate of recidivism.

10 (4) Any decision by the department to change the mental health
11 care delivery system in which medication is provided to inmates.

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

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

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

19 SECTION 4. IC 12-7-2-40 IS AMENDED TO READ AS
20 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 40. "Community based
21 residential program", for purposes of IC 12-22-2, refers to the programs
22 described in ~~IC 12-22-2-3~~: **IC 12-22-2-3.5**.

23 SECTION 5. IC 12-7-2-40.6 IS AMENDED TO READ AS
24 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 40.6. (a) "Continuum
25 of care" means a range of services: the provision of which is assured by
26 a community mental health center or a managed care provider. The
27 term includes the following:

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

31 (2) Twenty-four (24) hour a day crisis intervention:

32 (3) Case management to fulfill individual patient needs; including
33 assertive case management when indicated:

34 (4) Outpatient services; including intensive outpatient services;
35 substance abuse services; counseling; and treatment:

36 (5) Acute stabilization services; including detoxification services:

37 (6) Residential services:

38 (7) Day treatment:

39 (8) Family support services:

40 (9) Medication evaluation and monitoring:

41 (10) Services to prevent unnecessary and inappropriate treatment
42 and hospitalization and the deprivation of a person's liberty:

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- 1 **(1) defined by the division in rules adopted under IC 4-22-2 to**
- 2 **provide a comprehensive continuum of care by a community**
- 3 **mental health center or other provider; and**
- 4 **(2) based on recovery focused models of care and that are**
- 5 **intended to meet the individual treatment needs of the**
- 6 **behavioral health consumer.**
- 7 **(b) The continuum of care may include the following services:**
- 8 **(1) Wellness programs.**
- 9 **(2) Engagement services.**
- 10 **(3) Outpatient and inpatient services.**
- 11 **(4) Rehabilitative and habilitative services.**
- 12 **(5) Residential care and supported housing.**
- 13 **(6) Acute intensive services.**

14 **All services must support prevention and treatment of mental**

15 **health and addiction for all populations.**

16 SECTION 6. IC 12-7-2-117.6, AS ADDED BY P.L.99-2007,

17 SECTION 45, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

18 JULY 1, 2011]: Sec. 117.6. "Individual with a mental illness", for

19 purposes of IC 12-21-2 ~~IC 12-22-1~~, and IC 12-24-17, means an

20 individual who:

- 21 (1) has a psychiatric disorder that substantially impairs the
- 22 individual's mental health; and
- 23 (2) requires care, treatment, training, or detention:
- 24 (A) because of the psychiatric disorder; or
- 25 (B) for the welfare of the individual or others of the
- 26 community in which the individual resides.

27 SECTION 7. IC 12-7-2-127 IS AMENDED TO READ AS

28 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 127. ~~(a)~~ "Managed care

29 provider", for purposes of IC 12-14-1 through IC 12-14-9.5 and

30 IC 12-15 (except IC 12-15-21, IC 12-15-33, and IC 12-15-34) means

31 either of the following:

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

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1 (B) has entered into a provider agreement for the provision of
 2 physician services under IC 12-15-11-4.
 3 (b) "Managed care provider"; for purposes of IC ~~12-21-1~~ through
 4 IC ~~12-29-2~~; means an organization:
 5 (1) that:
 6 (A) for mental health services; is defined under 42 U.S.C.
 7 300x-2(c);
 8 (B) provides addiction services; or
 9 (C) provides children's mental health services;
 10 (2) that has entered into a provider agreement with the division of
 11 mental health and addiction under IC ~~12-21-2-7~~ to provide a
 12 continuum of care in the least restrictive, most appropriate
 13 setting; and
 14 (3) that is operated by at least one (1) of the following:
 15 (A) A city, town, county, or other political subdivision of
 16 Indiana.
 17 (B) An agency of Indiana or of the United States.
 18 (C) A political subdivision of another state.
 19 (D) A hospital owned or operated by:
 20 (i) a unit of government; or
 21 (ii) a building authority that is organized for the purpose of
 22 constructing facilities to be leased to units of government.
 23 (E) A corporation incorporated under IC ~~23-7-1.1~~ (before its
 24 repeal August 1, 1991) or IC ~~23-17~~.
 25 (F) An organization that is exempt from federal income
 26 taxation under Section 501(c)(3) of the Internal Revenue
 27 Code.
 28 (G) A university or college.
 29 SECTION 8. IC 12-7-2-149.1, AS AMENDED BY P.L.145-2006,
 30 SECTION 57, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 31 JULY 1, 2011]: Sec. 149.1. "Provider" means the following:
 32 (1) For purposes of IC 12-10-7, the meaning set forth in
 33 IC 12-10-7-3.
 34 (2) For purposes of the following statutes, an individual, a
 35 partnership, a corporation, or a governmental entity that is
 36 enrolled in the Medicaid program under rules adopted under
 37 IC 4-22-2 by the office of Medicaid policy and planning:
 38 (A) IC 12-14-1 through IC 12-14-9.5.
 39 (B) IC 12-15, except IC 12-15-32, IC 12-15-33, and
 40 IC 12-15-34.
 41 (C) IC 12-17.6.
 42 (3) Except as provided in subdivision (4), for purposes of

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IC 12-17.2, a person who operates a child care center or child care home under IC 12-17.2.

(4) For purposes of IC 12-17.2-3.5, a person that:

(A) provides child care; and

(B) is directly paid for the provision of the child care under the federal Child Care and Development Fund voucher program administered under 45 CFR 98 and 45 CFR 99.

The term does not include an individual who provides services to a person described in clauses (A) and (B), regardless of whether 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 9. 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.~~

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1 SECTION 10. IC 12-7-2-168 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 168. "Respite care"
3 means, ~~the following:~~

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

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

11 SECTION 11. IC 12-10-6-2.1, AS AMENDED BY P.L.121-2008,
12 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
13 JULY 1, 2011]: Sec. 2.1. (a) An individual who is incapable of residing
14 in the individual's own home may apply for residential care assistance
15 under this section. The determination of eligibility for residential care
16 assistance is the responsibility of the division. Except as provided in
17 subsections (g) and (i), an individual is eligible for residential care
18 assistance if the division determines that the individual:

- 19 (1) is a recipient of Medicaid or the federal Supplemental Security
- 20 Income program;
- 21 (2) is incapable of residing in the individual's own home because
- 22 of dementia, mental illness, or a physical disability;
- 23 (3) requires a degree of care less than that provided by a health
- 24 care facility licensed under IC 16-28;
- 25 (4) can be adequately cared for in a residential care setting; and
- 26 (5) has not made any asset transfer prohibited under the state plan
- 27 or in 42 U.S.C. 1396p(c) in order to be eligible for Medicaid.

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

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

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

36 If the service coordinator determines the person evaluated under this
37 subsection has mental retardation, the service coordinator may
38 recommend an alternative placement for the person.

39 (d) Except as provided in section 5 of this chapter, residential care
40 consists of only room, board, and laundry, along with minimal
41 administrative direction. State financial assistance may be provided for
42 such care in a boarding or residential home of the applicant's choosing

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1 that is licensed under IC 16-28 or a Christian Science facility listed and
 2 certified by the Commission for Accreditation of Christian Science
 3 Nursing Organizations/Facilities, Inc., that meets certain life safety
 4 standards considered necessary by the state fire marshal. Payment for
 5 such care shall be made to the provider of the care according to
 6 division directives and supervision. The amount of nonmedical
 7 assistance to be paid on behalf of a recipient living in a boarding home,
 8 residential home, or Christian Science facility shall be based on the
 9 daily rate established by the division. The rate for facilities that are
 10 referred to in this section and licensed under IC 16-28 may not exceed
 11 an upper rate limit established by a rule adopted by the division. The
 12 recipient may retain from the recipient's income a monthly personal
 13 allowance of fifty-two dollars (\$52). This amount is exempt from
 14 income eligibility consideration by the division and may be exclusively
 15 used by the recipient for the recipient's personal needs. However, if the
 16 recipient's income is less than the amount of the personal allowance,
 17 the division shall pay to the recipient the difference between the
 18 amount of the personal allowance and the recipient's income. A reserve
 19 or an accumulated balance from such a source, together with other
 20 sources, may not be allowed to exceed the state's resource allowance
 21 allowed for adults eligible for state supplemental assistance or
 22 Medicaid as established by the rules of the office of Medicaid policy
 23 and planning.

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

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

37 (g) The rate of payment to the provider shall be determined in
 38 accordance with a prospective prenegotiated payment rate predicated
 39 on a reasonable cost related basis, with a growth of profit factor, as
 40 determined in accordance with generally accepted accounting
 41 principles and methods, and written standards and criteria, as
 42 established by the division. The division shall establish an

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1 administrative appeal procedure to be followed if rate disagreement
 2 occurs if the provider can demonstrate to the division the necessity of
 3 costs in excess of the allowed or authorized fee for the specific
 4 boarding or residential home. The amount may not exceed the
 5 maximum established under subsection (d).

6 (h) The personal allowance for one (1) month for an individual
 7 described in subsection (a) is the amount that an individual would be
 8 entitled to retain under subsection (d) plus an amount equal to one-half
 9 (1/2) of the remainder of:

10 (1) gross earned income for that month; minus

11 (2) the sum of:

12 (A) sixteen dollars (\$16); plus

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

17 (C) transportation expenses for that month; plus

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

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

23 (j) The director of the division may contract with the division of
 24 mental health and addiction or the division of disability and
 25 rehabilitative services to purchase services for individuals with a
 26 mental illness or a developmental disability by providing money to
 27 supplement the appropriation for community **based** residential care
 28 programs established under IC 12-22-2 or community **based** residential
 29 programs established under IC 12-11-1.1-1.

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

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

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

40 (A) Individual independence, dignity, and privacy.

41 (B) Long term care services that are:

42 (i) integrated, accessible, and responsible; and

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- 1 (ii) available in home and community settings.
- 2 (C) Individual choice in planning and managing long term
- 3 care.
- 4 (D) Access to an array of long term care services:
- 5 (i) for an individual to receive care that is appropriate for the
- 6 individual's needs; and
- 7 (ii) to enable a case manager to have cost effective
- 8 alternatives available in the construction of care plans and
- 9 the delivery of services.
- 10 (E) Long term care services that include home care,
- 11 community based services, assisted living, congregate care,
- 12 adult foster care, and institutional care.
- 13 (F) Maintaining an individual's dignity and self-reliance to
- 14 protect the fiscal interests of both taxpayers and the state.
- 15 (G) Long term care services that are fiscally sound.
- 16 **(H) Services that:**
- 17 **(i) promote behavioral health; and**
- 18 **(ii) prevent and treat mental illness and addiction.**
- 19 (2) Review state policies on community and home care services.
- 20 (3) Recommend the adoption of rules under IC 4-22-2.
- 21 (4) Recommend legislative changes affecting community and
- 22 home care services.
- 23 (5) Recommend the coordination of the board's activities with the
- 24 activities of other boards and state agencies concerned with
- 25 community and home care services.
- 26 (6) Evaluate cost effectiveness, quality, scope, and feasibility of
- 27 a state administered system of community and home care
- 28 services.
- 29 (7) Evaluate programs for financing services to those in need of
- 30 a continuum of care.
- 31 (8) Evaluate state expenditures for community and home care
- 32 services, taking into account efficiency, consumer choice,
- 33 competition, and equal access to providers.
- 34 (9) Develop policies that support the participation of families and
- 35 volunteers in meeting the long term care needs of individuals.
- 36 (10) Encourage the development of funding for a continuum of
- 37 care from private resources, including insurance.
- 38 (11) Develop a cost of services basis and a program of cost
- 39 reimbursement for those persons who can pay all or a part of the
- 40 cost of the services rendered. The division shall use this cost of
- 41 services basis and program of cost reimbursement in
- 42 administering IC 12-10-10. The cost of services basis and

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1 program of cost reimbursement must include a client cost share
2 formula that:

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

6 (B) does not impose charges for the total cost of services
7 provided to an individual under the community and home
8 options to institutional care for the elderly and disabled
9 program unless the eligible individual's income exceeds three
10 hundred fifty percent (350%) of the federal income poverty
11 level.

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

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

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

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

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

25 SECTION 13. IC 12-10.5-2-4 IS ADDED TO THE INDIANA
26 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
27 [EFFECTIVE JULY 1, 2011]: **Sec. 4. The continuum of care**
28 **provided under this article must include services that support**
29 **prevention and treatment of mental illness and addiction.**

30 SECTION 14. IC 12-21-2-3, AS AMENDED BY P.L.99-2007,
31 SECTION 100, IS AMENDED TO READ AS FOLLOWS
32 [EFFECTIVE JULY 1, 2011]: Sec. 3. ~~(a)~~ In addition to the general
33 authority granted to the director under IC 12-8-8, the director shall do
34 the following:

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

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

42 (3) Subject to the approval of the budget director and the

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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.~~
 (B) Licensing or certifying community residential programs described in IC 12-22-2-3.5 for individuals with serious mental illness (SMI), serious emotional disturbance (SED), or chronic addiction (CA) with the exception of psychiatric residential treatment facilities.
 ~~(D) (C) Certifying community mental health centers to operate in Indiana.~~
 ~~(E) (D) 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 or university and with the approval, if required by law, of the

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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~~ **other** 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) (12) Compile information and statistics concerning the ethnicity and gender of a program or service recipient.~~

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

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

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

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- 1 ~~(2) Twenty-four (24) hour supervision of the patient is available.~~
- 2 ~~(3) A patient in the long term care service setting receives:~~
- 3 ~~(A) active treatment if appropriate for a patient with a chronic~~
- 4 ~~and persistent mental disorder or chronic addictive disorder;~~
- 5 ~~(B) case management services from a state approved provider;~~
- 6 ~~and~~
- 7 ~~(C) maintenance of care under the direction of a physician.~~
- 8 ~~(4) Crisis care is available.~~
- 9 ~~(c) Funding for services under subsection (a)(12) shall be provided~~
- 10 ~~by the division through the reallocation of existing appropriations. The~~
- 11 ~~need of the patients is a priority for services. The division shall adopt~~
- 12 ~~rules to implement subsection (a)(12) before July 1, 1995.~~
- 13 SECTION 15. IC 12-21-2-8, AS AMENDED BY P.L.99-2007,
- 14 SECTION 102, IS AMENDED TO READ AS FOLLOWS
- 15 [EFFECTIVE JULY 1, 2011]: Sec. 8. (a) The director shall develop a
- 16 comprehensive system of monitoring, evaluation, and quality assurance
- 17 for the ~~continuum of care~~ **services** required by this chapter.
- 18 (b) The director shall determine to whom contracts are awarded,
- 19 based on the following factors:
- 20 (1) The continuity of services a contractor provides for patients.
- 21 (2) The accessibility of a contractor's services to patients.
- 22 (3) The acceptability of a contractor's services to patients.
- 23 (4) A contractor's ability to focus services on building the
- 24 self-sufficiency of the patient.
- 25 (c) This subsection applies to the reimbursement of contract
- 26 payments to ~~managed care~~ providers. Payments must be determined
- 27 prospectively in accordance with generally accepted accounting
- 28 principles and actuarial principles recognizing costs incurred by
- 29 efficiently and economically operated programs that:
- 30 (1) serve individuals with a mental illness or substance abuse
- 31 patients; and
- 32 (2) are subject to quality and safety standards and laws.
- 33 (d) Before entering into a contract under this section, the director
- 34 shall submit the contract to the attorney general for approval as to form
- 35 and legality.
- 36 (e) A contract under this section must do the following:
- 37 (1) Specify:
- 38 (A) the work to be performed; and
- 39 (B) the patient populations to whom services must be
- 40 provided.
- 41 (2) Provide for a reduction in funding or termination of the
- 42 contract for failure to comply with terms of the contract.

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- 1 (3) Require that the contractor meet the standards set forth in
- 2 rules adopted by the division of mental health and addiction under
- 3 IC 4-22-2.
- 4 (4) Require that the contractor participate in the division's
- 5 evaluation process.
- 6 (5) For any service for which the division chooses to contract on
- 7 a per diem basis, the per diem reimbursement shall be determined
- 8 under subsection (c) for the contractor's reasonable cost of
- 9 providing services.
- 10 (6) In contracts with capitated payment provisions, provide that
- 11 the contractor's cost of purchasing stop-loss insurance for the
- 12 patient populations to be served in amounts and with limits
- 13 customarily purchased by prepaid health care plans must be:
- 14 (A) included in the actuarial determination of the capitated
- 15 payment amounts; or
- 16 (B) separately paid to the contractor by the division.
- 17 (7) Provide that a contract for enumerated services granted by the
- 18 division under this section to an approved ~~managed care~~ provider
- 19 may not create or confer upon the ~~managed care~~ provider liability
- 20 or responsibility for care or services beyond those services
- 21 supported by the contract.
- 22 SECTION 16. IC 12-21-4.1-1, AS ADDED BY P.L.170-2009,
- 23 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 24 JULY 1, 2011]: Sec. 1. (a) As used in this section, "task force" means
- 25 the workforce development task force for mental health and addiction.
- 26 (b) The workforce development task force for mental health and
- 27 addiction is established.
- 28 (c) The task force consists of the following individuals to be
- 29 appointed by the governor:
- 30 (1) One (1) representative from the division of mental health and
- 31 addiction (IC 12-21-1-1) who shall serve as chairperson of the
- 32 task force.
- 33 (2) One (1) representative from the state department of health
- 34 (IC 16-19-3-1).
- 35 (3) One (1) representative from the department of education
- 36 (IC 20-19-3-1).
- 37 (4) One (1) representative from the department of correction
- 38 (IC 11-8-2-1).
- 39 (5) One (1) representative from the Indiana professional licensing
- 40 agency (IC 25-1-5-3).
- 41 (6) One (1) representative from the Indiana department of
- 42 veterans' affairs (IC 10-17-1-2).

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- 1 (7) One (1) representative from the commission on
- 2 Hispanic/Latino affairs (IC 4-23-28-2).
- 3 (8) Two (2) representatives of different advocacy groups for
- 4 consumers of mental health services.
- 5 (9) One (1) representative from a statewide coalition that
- 6 represents minority health issues.
- 7 (10) One (1) member of the Indiana commission on mental health
- 8 **and addiction** (IC 12-21-6.5-2).
- 9 (11) One (1) representative of community mental health centers.
- 10 (12) One (1) representative from a college or university from a
- 11 program for an undergraduate degree in social work.
- 12 (13) One (1) representative from a college or university with a
- 13 school of nursing.
- 14 (14) One (1) psychologist licensed under IC 25-33 and engaged
- 15 in private practice.
- 16 (15) One (1) representative from the Indiana University School of
- 17 Medicine, department of psychiatry.
- 18 (16) One (1) representative from the Indiana University School of
- 19 Medicine, department of:
- 20 (A) pediatrics; or
- 21 (B) internal medicine.
- 22 (17) One (1) representative from Riley Hospital for Children
- 23 specializing in:
- 24 (A) infant; or
- 25 (B) toddler;
- 26 mental health.
- 27 (18) One (1) representative from Ivy Tech Community College,
- 28 human service degree program.
- 29 (19) Two (2) representatives of consumers.
- 30 (d) The division of mental health and addiction shall provide staff
- 31 for the task force.
- 32 (e) The task force shall study the following issues concerning
- 33 individuals with mental illness:
- 34 (1) Increases in wages and other compensation for difficult to
- 35 recruit mental health and addiction professional classifications.
- 36 (2) Loan repayment programs to attract individuals in
- 37 classifications that provide services in mental health and
- 38 addiction programs.
- 39 (3) Tuition reimbursement, including license and certification
- 40 fees, for individuals in classifications that provide services in
- 41 mental health and addiction programs.
- 42 (4) Internship opportunities for individuals in classifications that

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- 1 provide services in mental health and addiction programs.
- 2 (5) Mentoring opportunities for individuals in classifications that
- 3 provide services in mental health and addiction programs.
- 4 (6) Revision of curriculum in master's, doctorate, and medical
- 5 level programs to require courses in mental health and addiction.
- 6 (7) Marketing programs offering sign-on bonuses and referral
- 7 incentives for difficult to recruit mental health and addiction
- 8 professional classifications.
- 9 (8) Medical rate setting, including comparison of the state's rate
- 10 with similar states.

11 (f) The task force shall present findings and make recommendations
 12 to the Indiana commission on mental health not later than August 2011.

13 (g) This section expires December 31, 2011.

14 SECTION 17. IC 12-21-5-1.5 IS AMENDED TO READ AS
 15 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 1.5. The division shall
 16 do the following:

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

- 21 (A) A patient's income.
- 22 (B) A patient's level of daily functioning.
- 23 (C) A patient's prognosis.

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

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

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

- 39 (A) information provided to the patient on patient rights before
 40 treatment;
- 41 (B) accessibility, acceptability, and continuity of services
 42 provided or requested; and

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

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1 SECTION 18. IC 12-21-6.5-1, AS ADDED BY P.L.12-2006,
 2 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 3 UPON PASSAGE]: Sec. 1. As used in this chapter, "commission"
 4 refers to the Indiana commission on mental health **and addiction**
 5 established by section 2 of this chapter.

6 SECTION 19. IC 12-21-6.5-2, AS ADDED BY P.L.12-2006,
 7 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 8 UPON PASSAGE]: Sec. 2. The Indiana commission on mental health
 9 **and addiction** is established.

10 SECTION 20. IC 12-21-6.5-3, AS ADDED BY P.L.12-2006,
 11 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 12 UPON PASSAGE]: Sec. 3. The commission consists of seventeen (17)
 13 members determined as follows:

14 (1) The speaker of the house of representatives and the president
 15 pro tempore of the senate shall each appoint two (2) legislative
 16 members, who may not be from the same political party, to serve
 17 on the commission.

18 (2) The governor shall appoint thirteen (13) lay members, not
 19 more than seven (7) of whom may be from the same political
 20 party, to serve on the commission for a term of four (4) years as
 21 follows:

22 (A) Four (4) at-large members, not more than two (2) of whom
 23 may be from the same political party.

24 (B) Two (2) consumers of mental health **or addiction** services.

25 (C) Two (2) representatives of different advocacy groups for
 26 consumers of mental health **or addiction** services.

27 (D) Two (2) members of families of consumers of mental
 28 health **or addiction** services.

29 (E) Three (3) members who represent mental health **or**
 30 **addiction** providers. One (1) of the members appointed under
 31 this clause must be a representative of a for-profit psychiatric
 32 provider. One (1) of the members appointed under this clause
 33 must be a physician licensed under IC 25-22.5.

34 (3) The governor shall ensure that the members appointed under
 35 subdivision (2) represent all geographic areas of Indiana.

36 SECTION 21. IC 12-21-6.5-6, AS ADDED BY P.L.12-2006,
 37 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 38 UPON PASSAGE]: Sec. 6. (a) **Except as provided in subsection (b)**,
 39 the commission shall operate under the policies governing study
 40 committees adopted by the legislative council.

41 (b) **The members appointed under section 3(2) of this chapter**
 42 **shall serve without receiving per diem or traveling expenses.**

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1 SECTION 22. IC 12-21-6.5-8, AS ADDED BY P.L.12-2006,
2 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 UPON PASSAGE]: Sec. 8. The commission shall do the following:

4 (1) Study and evaluate the funding system for mental health **and**
5 **addiction** services in Indiana.

6 (2) Review and make specific recommendations regarding the
7 provision of mental health **and addiction** services delivered by
8 community providers and state operated hospitals. The review and
9 recommendations must cover services to all age groups including
10 children, youth, and adults.

11 (3) Review and make recommendations regarding any unmet need
12 for public supported mental health **and addiction** services:

13 (A) in any specific geographic area; or

14 (B) throughout Indiana.

15 In formulating recommendations, the commission shall consider
16 the need, feasibility, and desirability of including additional
17 organizations in the network of providers of mental health **and**
18 **addiction** services.

19 (4) Monitor the implementation of managed care for ~~the mentally~~
20 ~~ill~~ **a person with mental illness or an addictive disorder** that is
21 paid for in part or in whole by the state.

22 (5) Make recommendations regarding the commission's findings
23 to the appropriate division or department of state government.

24 SECTION 23. IC 12-21-6.5-9, AS ADDED BY P.L.12-2006,
25 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
26 UPON PASSAGE]: Sec. 9. This chapter expires ~~June 30, 2011~~. **June**
27 **30, 2016**.

28 SECTION 24. IC 12-22-2-3.5 IS ADDED TO THE INDIANA
29 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
30 [EFFECTIVE JULY 1, 2011]: **Sec. 3.5. Community based residential**
31 **programs include a broad range of living arrangements designed**
32 **to meet the unique needs of individuals with behavioral health**
33 **disorders in integrated settings and described in rules adopted by**
34 **the division under IC 4-22-2.**

35 SECTION 25. IC 12-22-2-5 IS AMENDED TO READ AS
36 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 5. To the extent that
37 programs described in ~~section 3~~ **section 3.5** of this chapter are
38 available and meet an individual's needs, an individual should be
39 placed in a program that is the least restrictive.

40 SECTION 26. IC 12-22-2-11, AS AMENDED BY P.L.99-2007,
41 SECTION 114, IS AMENDED TO READ AS FOLLOWS
42 [EFFECTIVE JULY 1, 2011]: Sec. 11. (a) An entity, **other than a**

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1 **psychiatric residential treatment facility, may not:**
 2 (1) operate a program described in IC 12-22-3; or
 3 (2) hold itself out as operating;
 4 (A) a program described in IC 12-22-3; or
 5 (B) a group home for individuals with a mental illness;
 6 **operate or hold itself out as operating a group home for individuals**
 7 **with serious mental illness (SMI), serious emotional disturbance**
 8 **(SED), or chronic addiction (CA) unless the entity is licensed or**
 9 **certified by the division of mental health and addiction: the entity is**
 10 **licensed or certified by the division.**
 11 (b) The division of mental health and addiction shall investigate a
 12 report of:
 13 (1) an unlicensed facility housing a community residential
 14 program described in ~~section 3(1), 3(2), and 3(3)~~ **section 3.5** of
 15 this chapter;
 16 (2) an uncertified operator of a community residential program
 17 described in ~~section 3(1), 3(2), and 3(3)~~ **section 3.5** of this
 18 chapter; or
 19 (3) a licensed or certified entity's noncompliance with this article;
 20 and report the division's findings to the attorney general.
 21 (c) The attorney general may do the following:
 22 (1) Seek the issuance of a search warrant to assist in an
 23 investigation under this section.
 24 (2) File an action for injunctive relief to stop the operation of a
 25 facility described in subsection (b) if there is reasonable cause to
 26 believe that:
 27 (A) the facility or the operator of a community residential
 28 program described in subsection (b) is operating without a
 29 required license or certification; or
 30 (B) a licensed or certified entity's actions or omissions create
 31 an immediate danger of serious bodily injury to an individual
 32 with a mental illness or an imminent danger to the health of an
 33 individual with a mental illness.
 34 (3) Seek in a civil action a civil penalty of not more than one
 35 hundred dollars (\$100) a day for each day a facility is operating:
 36 (A) without a license or certification required by law; or
 37 (B) with a license or certification required under this chapter,
 38 but is not in compliance with this article, IC 12-21-2-3, or
 39 rules adopted under this article or IC 12-21-2-3.
 40 (d) The division of mental health and addiction may provide for the
 41 removal of individuals with a mental illness from facilities for
 42 individuals with a mental illness described in subsection (c).

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

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

6 SECTION 27. IC 12-23-1-9 IS AMENDED TO READ AS
7 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 9. ~~One-third (1/3)~~ (a)
8 **A part of the total amount** of the federal money earmarked for Drug
9 Abuse and Alcohol Abuse/Alcoholics Efforts received for
10 disbursement by the division shall be used for ~~treatment~~ **local** programs
11 that are not under the direction of a community mental health center or
12 a state institution. **provide prevention, intervention, or treatment**
13 **services for individuals who:**

- 14 (1) **have a primary diagnosis of chronic substance abuse and**
- 15 **dependence; and**
- 16 (2) **are without significant or immediate treatment needs for**
- 17 **mental illness or serious emotional disturbance.**

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

22 SECTION 28. IC 12-24-19-4 IS AMENDED TO READ AS
23 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 4. Within the limits of
24 appropriated funds, the division shall provide by written contract a
25 continuum of care in the community for appropriate patients who are
26 discharged or transferred under this chapter that does the following:

- 27 (1) Integrates services.
- 28 (2) Facilitates provision of appropriate services to patients.
- 29 (3) Ensures continuity of care ~~including case management~~, so that
- 30 a patient is not discharged or transferred without adequate and
- 31 appropriate community services.

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

35 SECTION 29. IC 12-26-14-4 IS AMENDED TO READ AS
36 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 4. (a) If a staff member
37 of a program involved in the treatment, supervision, or care of an
38 individual ordered to enter an outpatient therapy program under section
39 1 of this chapter has reason to believe that the individual has failed to
40 comply with the requirements of section 3 of this chapter, the staff
41 member shall immediately notify the court of the failure to comply.

42 (b) Except as provided in subsection (c), the individual may be

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1 transferred from the outpatient therapy program to one (1) of the
2 following:

3 (1) The inpatient unit of the facility that has the original
4 commitment.

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

7 ~~(3) A sub-acute stabilization facility.~~

8 **(2) A community based residential program under**
9 **IC 12-22-2-3.5.**

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

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

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

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

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

25 SECTION 30. IC 12-29-2-13, AS AMENDED BY P.L.99-2007,
26 SECTION 151, IS AMENDED TO READ AS FOLLOWS
27 [EFFECTIVE JULY 1, 2011]: Sec. 13. (a) This section applies to Lake
28 County.

29 (b) In addition to any other appropriation under this article, the
30 county annually may fund each center serving the county from the
31 county's general fund in an amount not exceeding the following:

32 (1) For 2004, the product of the amount determined under section
33 2(b)(1) of this chapter multiplied by seven hundred fifty-two
34 thousandths (0.752).

35 (2) For 2005 and each year thereafter, the product of the amount
36 determined under section 2(b)(2) of this chapter for that year
37 multiplied by seven hundred fifty-two thousandths (0.752).

38 (c) The receipts from the tax levied under this section shall be used
39 for the leasing, purchasing, constructing, or operating of **facilities for**
40 **community based residential facilities programs** for individuals with
41 a mental illness (as defined in ~~IC 12-7-2-1(67)~~. **IC 12-7-2-40**).

42 (d) Money appropriated under this section must be:

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1 (1) budgeted under IC 6-1.1-17; and
2 (2) included in the center's budget submitted to the division of
3 mental health and addiction.
4 (e) Permission for a levy increase in excess of the levy limitations
5 may be ordered under IC 6-1.1-18.5-15 only if the levy increase is
6 approved by the division of mental health and addiction for a
7 community mental health center.
8 SECTION 31. THE FOLLOWING ARE REPEALED [EFFECTIVE
9 JULY 1, 2011]: IC 12-7-2-188.7; IC 12-22-1; IC 12-22-2-3;
10 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;
11 IC 12-22-2-10; IC 12-22-3; IC 12-24-19-2.
12 SECTION 32. **An emergency is declared for this act.**

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COMMITTEE REPORT

Madam President: The Senate Committee on Health and Provider Services, to which was referred Senate Bill No. 88, 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 5, between lines 2 and 3, begin a new paragraph and insert:

"SECTION 2. IC 11-10-4-6.6, AS ADDED BY P.L.170-2009, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 6.6. (a) As used in this section, "advisory committee" refers to the mental health corrections quality advisory committee established by subsection (b).

(b) The mental health corrections quality advisory committee is established. The advisory committee consists of the following members:

- (1) The commissioner of the department or the commissioner's designee, who shall serve as chairperson of the advisory committee.
- (2) The director of the division of mental health and addiction or the director's designee.
- (3) A representative of a statewide mental health advocacy organization.
- (4) A representative of a statewide mental health provider organization.
- (5) A representative from a medical services organization that participates in the department's medical services program.
- (6) A member with expertise in psychiatric research representing a postsecondary educational institution.
- (7) A pharmacist licensed under IC 25-26 with expertise in mental health disorders.

The governor shall make the appointments under subdivisions (3) through (7) for a term of four (4) years and fill any vacancy on the advisory committee.

(c) The affirmative votes of a majority of the voting members appointed to the advisory committee are required for the committee to take action on any measure.

(d) The advisory committee shall advise the department and make recommendations concerning the department's formulary for medications for mental health and addictive disorders and consider the following:

- (1) Peer reviewed medical literature.
- (2) Observational studies.

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- (3) Health economic studies.
- (4) Input from physicians and patients.
- (5) Any other information determined by the advisory committee to be appropriate.

(e) The department shall report recommendations made by the advisory committee to the department's medical director.

(f) The department shall report the following information to the Indiana commission on mental health **and addiction** (IC 12-21-6.5-2):

- (1) The advisory committee's advice and recommendations made under this section.
- (2) The number and types of restrictions implemented by the department and the outcome of each restriction.
- (3) The transition of individuals with mental illness into the community and the rate of recidivism.
- (4) Any decision by the department to change the mental health care delivery system in which medication is provided to inmates."

Page 17, between lines 12 and 13, begin a new paragraph and insert: "SECTION 16. IC 12-21-4.1-1, AS ADDED BY P.L.170-2009, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 1. (a) As used in this section, "task force" means the workforce development task force for mental health and addiction.

(b) The workforce development task force for mental health and addiction is established.

(c) The task force consists of the following individuals to be appointed by the governor:

- (1) One (1) representative from the division of mental health and addiction (IC 12-21-1-1) who shall serve as chairperson of the task force.
- (2) One (1) representative from the state department of health (IC 16-19-3-1).
- (3) One (1) representative from the department of education (IC 20-19-3-1).
- (4) One (1) representative from the department of correction (IC 11-8-2-1).
- (5) One (1) representative from the Indiana professional licensing agency (IC 25-1-5-3).
- (6) One (1) representative from the Indiana department of veterans' affairs (IC 10-17-1-2).
- (7) One (1) representative from the commission on Hispanic/Latino affairs (IC 4-23-28-2).
- (8) Two (2) representatives of different advocacy groups for

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consumers of mental health services.

(9) One (1) representative from a statewide coalition that represents minority health issues.

(10) One (1) member of the Indiana commission on mental health **and addiction** (IC 12-21-6.5-2).

(11) One (1) representative of community mental health centers.

(12) One (1) representative from a college or university from a program for an undergraduate degree in social work.

(13) One (1) representative from a college or university with a school of nursing.

(14) One (1) psychologist licensed under IC 25-33 and engaged in private practice.

(15) One (1) representative from the Indiana University School of Medicine, department of psychiatry.

(16) One (1) representative from the Indiana University School of Medicine, department of:

(A) pediatrics; or

(B) internal medicine.

(17) One (1) representative from Riley Hospital for Children specializing in:

(A) infant; or

(B) toddler;

mental health.

(18) One (1) representative from Ivy Tech Community College, human service degree program.

(19) Two (2) representatives of consumers.

(d) The division of mental health and addiction shall provide staff for the task force.

(e) The task force shall study the following issues concerning individuals with mental illness:

(1) Increases in wages and other compensation for difficult to recruit mental health and addiction professional classifications.

(2) Loan repayment programs to attract individuals in classifications that provide services in mental health and addiction programs.

(3) Tuition reimbursement, including license and certification fees, for individuals in classifications that provide services in mental health and addiction programs.

(4) Internship opportunities for individuals in classifications that provide services in mental health and addiction programs.

(5) Mentoring opportunities for individuals in classifications that provide services in mental health and addiction programs.

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(6) Revision of curriculum in master's, doctorate, and medical level programs to require courses in mental health and addiction.

(7) Marketing programs offering sign-on bonuses and referral incentives for difficult to recruit mental health and addiction professional classifications.

(8) Medical rate setting, including comparison of the state's rate with similar states.

(f) The task force shall present findings and make recommendations to the Indiana commission on mental health not later than August 2011.

(g) This section expires December 31, 2011."

Page 18, between lines 41 and 42, begin a new paragraph and insert:

"SECTION 18. IC 12-21-6.5-1, AS ADDED BY P.L.12-2006, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. As used in this chapter, "commission" refers to the Indiana commission on mental health **and addiction** established by section 2 of this chapter.

SECTION 19. IC 12-21-6.5-2, AS ADDED BY P.L.12-2006, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. The Indiana commission on mental health **and addiction** is established.

SECTION 20. IC 12-21-6.5-3, AS ADDED BY P.L.12-2006, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. The commission consists of seventeen (17) members determined as follows:

(1) The speaker of the house of representatives and the president pro tempore of the senate shall each appoint two (2) legislative members, who may not be from the same political party, to serve on the commission.

(2) The governor shall appoint thirteen (13) lay members, not more than seven (7) of whom may be from the same political party, to serve on the commission for a term of four (4) years as follows:

(A) Four (4) at-large members, not more than two (2) of whom may be from the same political party.

(B) Two (2) consumers of mental health **or addiction** services.

(C) Two (2) representatives of different advocacy groups for consumers of mental health **or addiction** services.

(D) Two (2) members of families of consumers of mental health **or addiction** services.

(E) Three (3) members who represent mental health **or addiction** providers. One (1) of the members appointed under this clause must be a representative of a for-profit psychiatric

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provider. One (1) of the members appointed under this clause must be a physician licensed under IC 25-22.5.

(3) The governor shall ensure that the members appointed under subdivision (2) represent all geographic areas of Indiana.

SECTION 21. IC 12-21-6.5-6, AS ADDED BY P.L.12-2006, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. **(a) Except as provided in subsection (b),** the commission shall operate under the policies governing study committees adopted by the legislative council.

(b) The members appointed under section 3(2) of this chapter shall serve without receiving per diem or traveling expenses.

SECTION 22. IC 12-21-6.5-8, AS ADDED BY P.L.12-2006, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. The commission shall do the following:

- (1) Study and evaluate the funding system for mental health **and addiction** services in Indiana.
- (2) Review and make specific recommendations regarding the provision of mental health **and addiction** services delivered by community providers and state operated hospitals. The review and recommendations must cover services to all age groups including children, youth, and adults.
- (3) Review and make recommendations regarding any unmet need for public supported mental health **and addiction** services:
 - (A) in any specific geographic area; or
 - (B) throughout Indiana.

In formulating recommendations, the commission shall consider the need, feasibility, and desirability of including additional organizations in the network of providers of mental health **and addiction** services.

(4) Monitor the implementation of managed care for ~~the mentally ill~~ **a person with mental illness or an addictive disorder** that is paid for in part or in whole by the state.

(5) Make recommendations regarding the commission's findings to the appropriate division or department of state government.

SECTION 23. IC 12-21-6.5-9, AS ADDED BY P.L.12-2006, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. This chapter expires ~~June 30, 2011~~. **June 30, 2016.**"

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Page 22, after line 25, begin a new paragraph and insert:
"SECTION 25. **An emergency is declared for this act.**".
Re-number all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 88 as introduced.)

MILLER, Chairperson

Committee Vote: Yeas 6, Nays 0.

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