

**CONFERENCE COMMITTEE REPORT  
DIGEST FOR ESB 88**

**Citations Affected:** IC 5-20-1-2; IC 11-10-4-6.6; IC 12-7-2; IC 12-10; IC 12-10.5-2-4; IC 12-21; IC 12-22-2; IC 12-23-1-9; IC 12-24-19-4; IC 12-26-14-4; IC 12-29-2-13.

**Synopsis:** Various mental health issues. Conference committee report for ESB 88. Renames the commission on mental health the commission on mental health and addiction, changes qualification requirements for certain commission members, eliminates per diem for lay members of the commission, and extends the commission until June 30, 2016. Changes the allocation of federal aid used for local drug abuse and alcohol abuse programs. Redefines the services provided by community mental health centers and specifies that instead of a continuum of care, these services are to be provided. Eliminates 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. Requires the family and social services administration and DMHA to provide the select joint commission on Medicaid oversight and the commission on mental health and addiction with a report on access to mental health drugs before November 1, 2011. Repeals: (1) provisions providing for respite care for persons with mental illness; (2) a provision listing elements of community residential programs; (3) provisions establishing and governing the children's mental health bureau; (4) certain placement provisions for community residential facilities; and (5) definitions made obsolete by the bill. **(This conference committee report removes provisions: (1) concerning the first steps program; and (2) redefining Class I child care homes. This conference committee report requires the family and social services administration and DMHA to provide the select joint commission on Medicaid oversight and the commission on mental health and addiction with a report on access to mental health drugs before November 1, 2011.)**

**Effective:** Upon passage; July 1, 2011.

## CONFERENCE COMMITTEE REPORT

**MADAM PRESIDENT:**

*Your Conference Committee appointed to confer with a like committee from the House upon Engrossed House Amendments to Engrossed Senate Bill No. 88 respectfully reports that said two committees have conferred and agreed as follows to wit:*

that the Senate recede from its dissent from all House amendments and that the Senate now concur in all House amendments to the bill and that the bill be further amended as follows:

- 1 Delete everything after the enacting clause and insert the following:  
2 SECTION 1. IC 5-20-1-2, AS AMENDED BY P.L.99-2007,  
3 SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
4 JULY 1, 2011]: Sec. 2. As used in this chapter:  
5 "Assisted" means, with respect to a loan:  
6 (1) the payment by the United States or any duly authorized  
7 agency of the United States of assistance payments, interest  
8 payments, or mortgage reduction payments with respect to such  
9 loan; or  
10 (2) the provision of insurance, guaranty, security, collateral,  
11 subsidies, or other forms of assistance or aid acceptable to the  
12 authority for the making, holding, or selling of a loan from the  
13 United States, any duly authorized agency of the United States, or  
14 any entity or corporation acceptable to the authority, other than  
15 the sponsor.  
16 "Authority" means the Indiana housing and community development  
17 authority created by section 3 of this chapter.  
18 "Bonds" or "notes" means the bonds or notes authorized to be issued  
19 by the authority under this chapter.  
20 **"Community based residential programs" refers to programs**  
21 **developed by the division of mental health and addiction under**  
22 **IC 12-22-2-3.5.**

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

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

22 "Governmental agency" means any department, division, public  
 23 agency, political subdivision, or other public instrumentality of the  
 24 state of Indiana, the federal government, any other state or public  
 25 agency, or any two (2) or more thereof.

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

29 "Mortgage" or "mortgage loan" means a loan to provide permanent  
 30 financing for:

- 31 (1) the rehabilitation, acquisition, or construction of single family  
 32 residential housing, including land development; or
- 33 (2) the weatherization of single family residences.

34 "Mortgage lender" means a bank, trust company, savings bank,  
 35 savings association, credit union, national banking association, federal  
 36 savings association or federal credit union maintaining an office in this  
 37 state, a public utility (as defined in IC 8-1-2-1), a gas utility system  
 38 organized under IC 8-1-11.1, an insurance company authorized to do  
 39 business in this state, or any mortgage banking firm or mortgagee  
 40 authorized to do business in this state and approved by either the  
 41 authority or the Department of Housing and Urban Development.

42 "Land development" means the process of acquiring land primarily  
 43 for residential housing construction for persons and families of low and  
 44 moderate income and making, installing, or constructing nonresidential  
 45 housing improvements, including water, sewer, and other utilities,  
 46 roads, streets, curbs, gutters, sidewalks, storm drainage facilities, and  
 47 other installations or works, whether on or off the site, which the  
 48 authority deems necessary or desirable to prepare such land primarily  
 49 for residential housing construction.

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

1 "Persons and families of low and moderate income" means persons  
 2 and families of insufficient personal or family income to afford  
 3 adequate housing as determined by the standards established by the  
 4 authority, and in determining such standards the authority shall take  
 5 into account the following:

- 6 (1) The amount of total income of such persons and families  
 7 available for housing needs.
- 8 (2) The size of the family.
- 9 (3) The cost and condition of housing facilities available in the  
 10 different geographic areas of the state.
- 11 (4) The ability of such persons and families to compete  
 12 successfully in the private housing market and to pay the amounts  
 13 at which private enterprise is providing sanitary, decent, and safe  
 14 housing.

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

17 "Residential facility for children" means a facility:

- 18 (1) that provides residential services to individuals who are:
  - 19 (A) under twenty-one (21) years of age; and
  - 20 (B) adjudicated to be children in need of services under  
 21 IC 31-34 (or IC 31-6-4 before its repeal) or delinquent children  
 22 under IC 31-37 (or IC 31-6-4 before its repeal); and
- 23 (2) that is:
  - 24 (A) a child caring institution that is or will be licensed under  
 25 IC 31-27;
  - 26 (B) a residential facility that is or will be licensed under  
 27 IC 12-28-5; or
  - 28 (C) a facility that is or will be certified by the division of  
 29 mental health and addiction under IC 12-23.

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

33 ~~"Residential facility for persons with a mental illness" means a~~  
 34 ~~facility that is approved by the division of mental health and addiction~~  
 35 ~~for use in a community residential program for the mentally ill under~~  
 36 ~~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).~~

37 "Residential housing" means a specific work or improvement  
 38 undertaken primarily to provide single or multiple family housing for  
 39 rental or sale to persons and families of low and moderate income,  
 40 including the acquisition, construction, or rehabilitation of lands,  
 41 buildings, and improvements to the housing, and such other  
 42 nonhousing facilities as may be incidental or appurtenant to the  
 43 housing.

44 "Sponsors", "builders", or "developers" means corporations,  
 45 associations, partnerships, limited liability companies, or other entities  
 46 and consumer housing cooperatives organized pursuant to law for the  
 47 primary purpose of providing housing to low and moderate income  
 48 persons and families.

49 "State" means the state of Indiana.

50 "Tenant programs and services" means services and activities for  
 51 persons and families living in residential housing, including the

1 following:

- 2 (1) Counseling on household management, housekeeping,  
3 budgeting, and money management.  
4 (2) Child care and similar matters.  
5 (3) Access to available community services related to job training  
6 and placement, education, health, welfare, and other community  
7 services.  
8 (4) Guard and other matters related to the physical security of the  
9 housing residents.  
10 (5) Effective management-tenant relations, including tenant  
11 participation in all aspects of housing administration,  
12 management, and maintenance.  
13 (6) Physical improvements of the housing, including buildings,  
14 recreational and community facilities, safety measures, and  
15 removal of code violations.  
16 (7) Advisory services for tenants in the creation of tenant  
17 organizations which will assume a meaningful and responsible  
18 role in the planning and carrying out of housing affairs.  
19 (8) Procedures whereby tenants, either individually or in a group,  
20 may be given a hearing on questions relating to management  
21 policies and practices either in general or in relation to an  
22 individual or family.

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

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

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

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

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

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

- 5 (1) Peer reviewed medical literature.
- 6 (2) Observational studies.
- 7 (3) Health economic studies.
- 8 (4) Input from physicians and patients.
- 9 (5) Any other information determined by the advisory committee  
 10 to be appropriate.

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

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

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

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

- 26 (1) for purposes of IC 12-10-1 and IC 12-10-10, has the meaning  
 27 set forth in IC 12-10-1.
- 28 (2) For purposes of ~~IC 12-7-2-40.6 and IC 12-24-19~~, the meaning  
 29 set forth in ~~IC 12-24-19-2~~.

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

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

- 39 (1) Individualized treatment planning to increase patient coping  
 40 skills and symptom management, which may include any  
 41 combination of services listed under this section.
- 42 (2) Twenty-four (24) hour a day crisis intervention.
- 43 (3) Case management to fulfill individual patient needs, including  
 44 assertive case management when indicated.
- 45 (4) Outpatient services, including intensive outpatient services;  
 46 substance abuse services, counseling, and treatment.
- 47 (5) Acute stabilization services, including detoxification services.
- 48 (6) Residential services.
- 49 (7) Day treatment.
- 50 (8) Family support services.
- 51 (9) Medication evaluation and monitoring.

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

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

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

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

(1) Wellness programs.

(2) Engagement services.

(3) Outpatient and inpatient services.

(4) Rehabilitative and habilitative services.

(5) Residential care and supported housing.

(6) Acute intensive services.

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

SECTION 6. IC 12-7-2-117.6, AS ADDED BY P.L.99-2007, SECTION 45, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 117.6. "Individual with a mental illness", for purposes of IC 12-21-2 ~~IC 12-22-1~~, and IC 12-24-17, means an individual who:

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

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

(A) because of the psychiatric disorder; or

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

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

(1) A physician licensed under IC 25-22.5 who:

(A) is primarily engaged in general practice, family practice, internal medicine, pediatric medicine, or obstetrics and gynecology; and

(B) has entered into a provider agreement for the provision of physician services under IC 12-15-11-4.

(2) A partnership, corporation, or other entity that:

(A) employs or contracts with physicians licensed under IC 25-22.5 who are primarily engaged in general practice, family practice, internal medicine, pediatric medicine, or obstetrics and gynecology; and

(B) has entered into a provider agreement for the provision of physician services under IC 12-15-11-4.

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

~~(1) that:~~

~~(A) for mental health services, is defined under 42 U.S.C. 300x-2(c);~~

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

22       SECTION 8. IC 12-7-2-149.1, AS AMENDED BY P.L.145-2006,  
 23       SECTION 57, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 24       JULY 1, 2011]: Sec. 149.1. "Provider" means the following:

- 25       (1) For purposes of IC 12-10-7, the meaning set forth in  
 26       IC 12-10-7-3.  
 27       (2) For purposes of the following statutes, an individual, a  
 28       partnership, a corporation, or a governmental entity that is  
 29       enrolled in the Medicaid program under rules adopted under  
 30       IC 4-22-2 by the office of Medicaid policy and planning:  
 31           (A) IC 12-14-1 through IC 12-14-9.5.  
 32           (B) IC 12-15, except IC 12-15-32, IC 12-15-33, and  
 33           IC 12-15-34.  
 34           (C) IC 12-17.6.  
 35       (3) Except as provided in subdivision (4), for purposes of  
 36       IC 12-17.2, a person who operates a child care center or child care  
 37       home under IC 12-17.2.  
 38       (4) For purposes of IC 12-17.2-3.5, a person that:  
 39           (A) provides child care; and  
 40           (B) is directly paid for the provision of the child care under the  
 41           federal Child Care and Development Fund voucher program  
 42           administered under 45 CFR 98 and 45 CFR 99.  
 43       The term does not include an individual who provides services to  
 44       a person described in clauses (A) and (B), regardless of whether  
 45       the individual receives compensation.  
 46       **(5) For purposes of IC 12-21-1 through IC 12-29-2, an**  
 47       **organization:**  
 48           **(A) that:**  
 49               **(i) provides mental health services, as defined under 42**  
 50               **U.S.C. 300x-2(c);**  
 51               **(ii) provides addiction services; or**

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

21                   SECTION 9. IC 12-7-2-165, AS AMENDED BY P.L.99-2007,  
 22                   SECTION 49, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 23                   JULY 1, 2011]: Sec. 165. "Residential facility", for purposes of  
 24                   IC 12-28-4 and IC 12-28-5, refers to a residential facility for  
 25                   individuals with a developmental disability. ~~or a residential facility for~~  
 26                   ~~individuals with a mental illness.~~

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

- 30                   ~~(1)~~ for purposes of IC 12-10-4 and IC 12-10-5, temporary care or
- 31                   supervision of an individual with Alzheimer's disease or a related
- 32                   senile dementia that is provided because the individual's family
- 33                   or caretaker is temporarily unable or unavailable to provide
- 34                   needed care.
- 35                   ~~(2)~~ For purposes of ~~IC 12-22-1~~, the meaning set forth in
- 36                   ~~IC 12-22-1-1.~~

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

- 45                   (1) is a recipient of Medicaid or the federal Supplemental Security
- 46                   Income program;
- 47                   (2) is incapable of residing in the individual's own home because
- 48                   of dementia, mental illness, or a physical disability;
- 49                   (3) requires a degree of care less than that provided by a health
- 50                   care facility licensed under IC 16-28;
- 51                   (4) can be adequately cared for in a residential care setting; and

1 (5) has not made any asset transfer prohibited under the state plan  
2 or in 42 U.S.C. 1396p(c) in order to be eligible for Medicaid.

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

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

6 (1) evaluate a person seeking admission to a home or facility  
7 under subsection (a); or

8 (2) evaluate a person who has been admitted to a home or facility  
9 under subsection (a), including a review of the existing  
10 evaluations in the person's record at the home or facility.

11 If the service coordinator determines the person evaluated under this  
12 subsection has mental retardation, the service coordinator may  
13 recommend an alternative placement for the person.

14 (d) Except as provided in section 5 of this chapter, residential care  
15 consists of only room, board, and laundry, along with minimal  
16 administrative direction. State financial assistance may be provided for  
17 such care in a boarding or residential home of the applicant's choosing  
18 that is licensed under IC 16-28 or a Christian Science facility listed and  
19 certified by the Commission for Accreditation of Christian Science  
20 Nursing Organizations/Facilities, Inc., that meets certain life safety  
21 standards considered necessary by the state fire marshal. Payment for  
22 such care shall be made to the provider of the care according to  
23 division directives and supervision. The amount of nonmedical  
24 assistance to be paid on behalf of a recipient living in a boarding home,  
25 residential home, or Christian Science facility shall be based on the  
26 daily rate established by the division. The rate for facilities that are  
27 referred to in this section and licensed under IC 16-28 may not exceed  
28 an upper rate limit established by a rule adopted by the division. The  
29 recipient may retain from the recipient's income a monthly personal  
30 allowance of fifty-two dollars (\$52). This amount is exempt from  
31 income eligibility consideration by the division and may be exclusively  
32 used by the recipient for the recipient's personal needs. However, if the  
33 recipient's income is less than the amount of the personal allowance,  
34 the division shall pay to the recipient the difference between the  
35 amount of the personal allowance and the recipient's income. A reserve  
36 or an accumulated balance from such a source, together with other  
37 sources, may not be allowed to exceed the state's resource allowance  
38 allowed for adults eligible for state supplemental assistance or  
39 Medicaid as established by the rules of the office of Medicaid policy  
40 and planning.

41 (e) In addition to the amount that may be retained as a personal  
42 allowance under this section, an individual shall be allowed to retain  
43 an amount equal to the individual's state and local income tax liability.  
44 The amount that may be retained during a month may not exceed  
45 one-third (1/3) of the individual's state and local income tax liability for  
46 the calendar quarter in which that month occurs. This amount is  
47 exempt from income eligibility consideration by the division. The  
48 amount retained shall be used by the individual to pay any state or local  
49 income taxes owed.

50 (f) In addition to the amounts that may be retained under  
51 subsections (d) and (e), an eligible individual may retain a Holocaust

1 victim's settlement payment. The payment is exempt from income  
2 eligibility consideration by the division.

3 (g) The rate of payment to the provider shall be determined in  
4 accordance with a prospective prenegotiated payment rate predicated  
5 on a reasonable cost related basis, with a growth of profit factor, as  
6 determined in accordance with generally accepted accounting  
7 principles and methods, and written standards and criteria, as  
8 established by the division. The division shall establish an  
9 administrative appeal procedure to be followed if rate disagreement  
10 occurs if the provider can demonstrate to the division the necessity of  
11 costs in excess of the allowed or authorized fee for the specific  
12 boarding or residential home. The amount may not exceed the  
13 maximum established under subsection (d).

14 (h) The personal allowance for one (1) month for an individual  
15 described in subsection (a) is the amount that an individual would be  
16 entitled to retain under subsection (d) plus an amount equal to one-half  
17 (1/2) of the remainder of:

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

19 (2) the sum of:

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

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

25 (C) transportation expenses for that month; plus

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

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

31 (j) The director of the division may contract with the division of  
32 mental health and addiction or the division of disability and  
33 rehabilitative services to purchase services for individuals with a  
34 mental illness or a developmental disability by providing money to  
35 supplement the appropriation for community **based** residential care  
36 programs established under IC 12-22-2 or community **based** residential  
37 programs established under IC 12-11-1.1-1.

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

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

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

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

49 (B) Long term care services that are:

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

51 (ii) available in home and community settings.

- 1 (C) Individual choice in planning and managing long term  
2 care.
- 3 (D) Access to an array of long term care services:  
4 (i) for an individual to receive care that is appropriate for the  
5 individual's needs; and  
6 (ii) to enable a case manager to have cost effective  
7 alternatives available in the construction of care plans and  
8 the delivery of services.
- 9 (E) Long term care services that include home care,  
10 community based services, assisted living, congregate care,  
11 adult foster care, and institutional care.
- 12 (F) Maintaining an individual's dignity and self-reliance to  
13 protect the fiscal interests of both taxpayers and the state.
- 14 (G) Long term care services that are fiscally sound.
- 15 **(H) Services that:**  
16 **(i) promote behavioral health; and**  
17 **(ii) prevent and treat mental illness and addiction.**
- 18 (2) Review state policies on community and home care services.  
19 (3) Recommend the adoption of rules under IC 4-22-2.  
20 (4) Recommend legislative changes affecting community and  
21 home care services.  
22 (5) Recommend the coordination of the board's activities with the  
23 activities of other boards and state agencies concerned with  
24 community and home care services.  
25 (6) Evaluate cost effectiveness, quality, scope, and feasibility of  
26 a state administered system of community and home care  
27 services.  
28 (7) Evaluate programs for financing services to those in need of  
29 a continuum of care.  
30 (8) Evaluate state expenditures for community and home care  
31 services, taking into account efficiency, consumer choice,  
32 competition, and equal access to providers.  
33 (9) Develop policies that support the participation of families and  
34 volunteers in meeting the long term care needs of individuals.  
35 (10) Encourage the development of funding for a continuum of  
36 care from private resources, including insurance.  
37 (11) Develop a cost of services basis and a program of cost  
38 reimbursement for those persons who can pay all or a part of the  
39 cost of the services rendered. The division shall use this cost of  
40 services basis and program of cost reimbursement in  
41 administering IC 12-10-10. The cost of services basis and  
42 program of cost reimbursement must include a client cost share  
43 formula that:  
44 (A) imposes no charges for an eligible individual whose  
45 income does not exceed one hundred fifty percent (150%) of  
46 the federal income poverty level; and  
47 (B) does not impose charges for the total cost of services  
48 provided to an individual under the community and home  
49 options to institutional care for the elderly and disabled  
50 program unless the eligible individual's income exceeds three  
51 hundred fifty percent (350%) of the federal income poverty

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

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

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

- 25 (1) Organize the division, create the appropriate personnel
- 26 positions, and employ personnel necessary to discharge the
- 27 statutory duties and powers of the division or a bureau of the
- 28 division.
- 29 (2) Subject to the approval of the state personnel department,
- 30 establish personnel qualifications for all deputy directors,
- 31 assistant directors, bureau heads, and superintendents.
- 32 (3) Subject to the approval of the budget director and the
- 33 governor, establish the compensation of all deputy directors,
- 34 assistant directors, bureau heads, and superintendents.
- 35 (4) Study the entire problem of mental health, mental illness, and
- 36 addictions existing in Indiana.
- 37 (5) Adopt rules under IC 4-22-2 for the following:
- 38 (A) Standards for the operation of private institutions that are
- 39 licensed under IC 12-25 for the diagnosis, treatment, and care
- 40 of individuals with psychiatric disorders, addictions, or other
- 41 abnormal mental conditions.
- 42 ~~(B) Licensing supervised group living facilities described in~~
- 43 ~~IC 12-22-2-3 for individuals with a mental illness.~~
- 44 ~~(C) Certifying community residential programs described in~~
- 45 ~~IC 12-22-2-3 for individuals with a mental illness.~~
- 46 **(B) Licensing or certifying community residential**
- 47 **programs described in IC 12-22-2-3.5 for individuals with**
- 48 **serious mental illness (SMI), serious emotional disturbance**
- 49 **(SED), or chronic addiction (CA) with the exception of**
- 50 **psychiatric residential treatment facilities.**
- 51 ~~(D)~~ **(C) Certifying community mental health centers to operate**

- 1 in Indiana.
- 2 ~~(E)~~ **(D)** Establish exclusive geographic primary service areas
- 3 for community mental health centers. The rules must include
- 4 the following:
- 5 (i) Criteria and procedures to justify the change to the
- 6 boundaries of a community mental health center's primary
- 7 service area.
- 8 (ii) Criteria and procedures to justify the change of an
- 9 assignment of a community mental health center to a
- 10 primary service area.
- 11 (iii) A provision specifying that the criteria and procedures
- 12 determined in items (i) and (ii) must include an option for
- 13 the county and the community mental health center to
- 14 initiate a request for a change in primary service area or
- 15 provider assignment.
- 16 (iv) A provision specifying the criteria and procedures
- 17 determined in items (i) and (ii) may not limit an eligible
- 18 consumer's right to choose or access the services of any
- 19 provider who is certified by the division of mental health
- 20 and addiction to provide public supported mental health
- 21 services.
- 22 (6) Institute programs, in conjunction with an accredited college
- 23 or university and with the approval, if required by law, of the
- 24 commission for higher education, for the instruction of students
- 25 of mental health and other related occupations. The programs may
- 26 be designed to meet requirements for undergraduate and
- 27 postgraduate degrees and to provide continuing education and
- 28 research.
- 29 (7) Develop programs to educate the public in regard to the
- 30 prevention, diagnosis, treatment, and care of all abnormal mental
- 31 conditions.
- 32 (8) Make the facilities of the Larue D. Carter Memorial Hospital
- 33 available for the instruction of medical students, student nurses,
- 34 interns, and resident physicians under the supervision of the
- 35 faculty of the Indiana University School of Medicine for use by
- 36 the school in connection with research and instruction in
- 37 psychiatric disorders.
- 38 (9) Institute a stipend program designed to improve the quality
- 39 and quantity of staff that state institutions employ.
- 40 (10) Establish, supervise, and conduct community programs,
- 41 either directly or by contract, for the diagnosis, treatment, and
- 42 prevention of psychiatric disorders.
- 43 (11) Adopt rules under IC 4-22-2 concerning the records and data
- 44 to be kept concerning individuals admitted to state institutions,
- 45 community mental health centers, or ~~managed care~~ **other**
- 46 providers.
- 47 ~~(12) Establish, maintain, and reallocate before July 1, 1996,~~
- 48 ~~one-third (1/3); and before January 1, 1998; the remaining~~
- 49 ~~two-thirds (2/3) of the following:~~
- 50 ~~(A) long term care service settings; and~~
- 51 ~~(B) state operated long term care inpatient beds;~~

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

6 ~~(13)~~ **(12)** Compile information and statistics concerning the  
 7 ethnicity and gender of a program or service recipient.

8 ~~(14)~~ **(13)** Establish standards for each element of the continuum  
 9 of care services described in IC 12-7-2-40.6 for community  
 10 mental health centers and managed care other providers.

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

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

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

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

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

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

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

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

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

27 SECTION 15. IC 12-21-2-8, AS AMENDED BY P.L.99-2007,  
 28 SECTION 102, IS AMENDED TO READ AS FOLLOWS  
 29 [EFFECTIVE JULY 1, 2011]: Sec. 8. (a) The director shall develop a  
 30 comprehensive system of monitoring, evaluation, and quality assurance  
 31 for the continuum of care services required by this chapter.

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

34 (1) The continuity of services a contractor provides for patients.

35 (2) The accessibility of a contractor's services to patients.

36 (3) The acceptability of a contractor's services to patients.

37 (4) A contractor's ability to focus services on building the  
 38 self-sufficiency of the patient.

39 (c) This subsection applies to the reimbursement of contract  
 40 payments to managed care providers. Payments must be determined  
 41 prospectively in accordance with generally accepted accounting  
 42 principles and actuarial principles recognizing costs incurred by  
 43 efficiently and economically operated programs that:

44 (1) serve individuals with a mental illness or substance abuse  
 45 patients; and

46 (2) are subject to quality and safety standards and laws.

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

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

51 (1) Specify:

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

- 1 (9) One (1) representative from a statewide coalition that  
 2 represents minority health issues.
- 3 (10) One (1) member of the Indiana commission on mental health  
 4 **and addiction** (IC 12-21-6.5-2).
- 5 (11) One (1) representative of community mental health centers.
- 6 (12) One (1) representative from a college or university from a  
 7 program for an undergraduate degree in social work.
- 8 (13) One (1) representative from a college or university with a  
 9 school of nursing.
- 10 (14) One (1) psychologist licensed under IC 25-33 and engaged  
 11 in private practice.
- 12 (15) One (1) representative from the Indiana University School of  
 13 Medicine, department of psychiatry.
- 14 (16) One (1) representative from the Indiana University School of  
 15 Medicine, department of:
- 16 (A) pediatrics; or  
 17 (B) internal medicine.
- 18 (17) One (1) representative from Riley Hospital for Children  
 19 specializing in:
- 20 (A) infant; or  
 21 (B) toddler;  
 22 mental health.
- 23 (18) One (1) representative from Ivy Tech Community College,  
 24 human service degree program.
- 25 (19) Two (2) representatives of consumers.
- 26 (d) The division of mental health and addiction shall provide staff  
 27 for the task force.
- 28 (e) The task force shall study the following issues concerning  
 29 individuals with mental illness:
- 30 (1) Increases in wages and other compensation for difficult to  
 31 recruit mental health and addiction professional classifications.
- 32 (2) Loan repayment programs to attract individuals in  
 33 classifications that provide services in mental health and  
 34 addiction programs.
- 35 (3) Tuition reimbursement, including license and certification  
 36 fees, for individuals in classifications that provide services in  
 37 mental health and addiction programs.
- 38 (4) Internship opportunities for individuals in classifications that  
 39 provide services in mental health and addiction programs.
- 40 (5) Mentoring opportunities for individuals in classifications that  
 41 provide services in mental health and addiction programs.
- 42 (6) Revision of curriculum in master's, doctorate, and medical  
 43 level programs to require courses in mental health and addiction.
- 44 (7) Marketing programs offering sign-on bonuses and referral  
 45 incentives for difficult to recruit mental health and addiction  
 46 professional classifications.
- 47 (8) Medical rate setting, including comparison of the state's rate  
 48 with similar states.
- 49 (f) The task force shall present findings and make recommendations  
 50 to the Indiana commission on mental health not later than August 2011.
- 51 (g) This section expires December 31, 2011.

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

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

8 (A) A patient's income.

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

10 (C) A patient's prognosis.

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

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

19 (4) Develop a provider profile that must be used to evaluate the  
 20 performance of a ~~managed care~~ provider. ~~and that may be used to~~  
 21 ~~evaluate other providers of mental health services that access state~~  
 22 ~~administered funds, including Medicaid, and other federal~~  
 23 ~~funding.~~ A provider's profile must include input from consumers,  
 24 citizens, and representatives of the mental health ombudsman  
 25 program (IC 12-27-9) regarding the provider's:

26 (A) information provided to the patient on patient rights before  
 27 treatment;

28 (B) accessibility, acceptability, and continuity of services  
 29 provided or requested; and

30 (C) total cost of care per individual, using state administered  
 31 funds.

32 (5) Ensure compliance with all other performance criteria set  
 33 forth in a provider contract. In addition to the requirements set  
 34 forth in IC 12-21-2-7, a provider contract must include the  
 35 following:

36 (A) A requirement that the standards and criteria used in the  
 37 evaluation of care plans be available and accessible to the  
 38 patient.

39 (B) A requirement that the provider involve the patient in the  
 40 choice of and preparation of the treatment plan to the greatest  
 41 extent feasible.

42 (C) A provision encouraging the provider to intervene in a  
 43 patient's situation as early as possible, balancing the patient's  
 44 right to liberty with the need for treatment.

45 (D) A requirement that the provider set up and implement an  
 46 internal appeal process for the patient.

47 (6) Establish a toll free telephone number that operates during  
 48 normal business hours for individuals to make comments to the  
 49 division in a confidential manner regarding services or service  
 50 providers.

51 (7) Develop a confidential system to evaluate complaints and

1 patient appeals received by the division of mental health and  
2 addiction and to take appropriate action regarding the results of  
3 an investigation. A ~~managed care~~ provider is entitled to request  
4 and to have a hearing before information derived from the  
5 investigation is incorporated into the provider's profile.  
6 Information contained within the provider profile is subject to  
7 inspection and copying under IC 5-14-3-3.

8 ~~(8) Submit a biennial report to the governor and legislative~~  
9 ~~council that includes an evaluation of the continuum of care. A~~  
10 ~~report submitted under this subdivision to the legislative council~~  
11 ~~must be in an electronic format under IC 5-14-6.~~

12 ~~(9) Conduct an actuarial analysis every four (4) years beginning~~  
13 ~~July 1, 2000.~~

14 ~~(10) Annually determine sufficient rates to be paid for services~~  
15 ~~contracted with managed care providers who are awarded a~~  
16 ~~contract under IC 12-21-2-7.~~

17 ~~(11) Take actions necessary to assure the quality of services~~  
18 ~~required by the continuum of care under this chapter.~~

19 ~~(12) Incorporate the results from the actuarial analysis in~~  
20 ~~subdivision (9) to fulfill the responsibilities of this section.~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

17 (2) Review and make specific recommendations regarding the  
18 provision of mental health **and addiction** services delivered by  
19 community providers and state operated hospitals. The review and  
20 recommendations must cover services to all age groups including  
21 children, youth, and adults.

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

24 (A) in any specific geographic area; or

25 (B) throughout Indiana.

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

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

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

35 SECTION 23. IC 12-21-6.5-9, AS ADDED BY P.L.12-2006,  
36 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
37 UPON PASSAGE]: Sec. 9. This chapter expires ~~June 30, 2011~~. **June**  
38 **30, 2016.**

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

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

51 SECTION 26. IC 12-22-2-11, AS AMENDED BY P.L.99-2007,

1 SECTION 114, IS AMENDED TO READ AS FOLLOWS  
2 [EFFECTIVE JULY 1, 2011]: Sec. 11. (a) An entity, **other than a**  
3 **psychiatric residential treatment facility**, may not

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

5 (2) ~~hold itself out as operating;~~

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

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

8 **operate or hold itself out as operating a group home for individuals**  
9 **with serious mental illness (SMI), serious emotional disturbance**  
10 **(SED), or chronic addiction (CA) unless the entity is licensed or**  
11 **certified by the division of mental health and addiction. the entity is**  
12 **licensed or certified by the division.**

13 (b) The division of mental health and addiction shall investigate a  
14 report of:

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

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

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

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

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

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

29 (A) the facility or the operator of a community residential  
30 program described in subsection (b) is operating without a  
31 required license or certification; or

32 (B) a licensed or certified entity's actions or omissions create  
33 an immediate danger of serious bodily injury to an individual  
34 with a mental illness or an imminent danger to the health of an  
35 individual with a mental illness.

36 (3) Seek in a civil action a civil penalty of not more than one  
37 hundred dollars (\$100) a day for each day a facility is operating:

38 (A) without a license or certification required by law; or

39 (B) with a license or certification required under this chapter,  
40 but is not in compliance with this article, IC 12-21-2-3, or  
41 rules adopted under this article or IC 12-21-2-3.

42 (d) The division of mental health and addiction may provide for the  
43 removal of individuals with a mental illness from facilities for  
44 individuals with a mental illness described in subsection (c).

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

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

50 SECTION 27. IC 12-23-1-9 IS AMENDED TO READ AS  
51 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 9. ~~One-third (1/3)~~ **(a)**

1 **A part of the total amount** of the federal money earmarked for Drug  
 2 Abuse and Alcohol Abuse/Alcoholics Efforts received for  
 3 disbursement by the division shall be used for ~~treatment~~ **local** programs  
 4 that ~~are not under the direction of a community mental health center or~~  
 5 ~~a state institution~~ **provide prevention, intervention, or treatment**  
 6 **services for individuals who:**

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

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

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

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

20 (1) Integrates services.

21 (2) Facilitates provision of appropriate services to patients.

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

25 (4) **Provides services that:**

26 (A) **promote behavioral health; and**

27 (B) **prevent and treat mental illness and addiction.**

28 SECTION 29. IC 12-26-14-4 IS AMENDED TO READ AS  
 29 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 4. (a) If a staff member  
 30 of a program involved in the treatment, supervision, or care of an  
 31 individual ordered to enter an outpatient therapy program under section  
 32 1 of this chapter has reason to believe that the individual has failed to  
 33 comply with the requirements of section 3 of this chapter, the staff  
 34 member shall immediately notify the court of the failure to comply.

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

38 (1) The inpatient unit of the facility that has the original  
 39 commitment.

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

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

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

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

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

51 (2) the individual is in need of ~~either a supervised group living~~

1           ~~program or a sub-acute stabilization facility.~~ **community based**  
 2           **residential program under IC 12-22-2-3.5.**

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

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

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

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

16               (1) For 2004, the product of the amount determined under section  
 17               2(b)(1) of this chapter multiplied by seven hundred fifty-two  
 18               thousandths (0.752).

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

22          (c) The receipts from the tax levied under this section shall be used  
 23          for the leasing, purchasing, constructing, or operating of **facilities for**  
 24          community **based residential facilities programs (as defined in**  
 25          **IC 12-7-2-40)** for individuals with a mental illness ~~(as defined in~~  
 26          ~~IC 12-7-2-167).~~

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

28               (1) budgeted under IC 6-1.1-17; and

29               (2) included in the center's budget submitted to the division of  
 30               mental health and addiction.

31          (e) Permission for a levy increase in excess of the levy limitations  
 32          may be ordered under IC 6-1.1-18.5-15 only if the levy increase is  
 33          approved by the division of mental health and addiction for a  
 34          community mental health center.

35          SECTION 31. THE FOLLOWING ARE REPEALED [EFFECTIVE  
 36          JULY 1, 2011]: IC 12-7-2-167; IC 12-7-2-188.7; IC 12-22-1;  
 37          IC 12-22-2-3; IC 12-22-2-4; IC 12-22-2-6; IC 12-22-2-7; IC 12-22-2-8;  
 38          IC 12-22-2-9; IC 12-22-2-10; IC 12-22-3; IC 12-24-19-2.

39          SECTION 32 [EFFECTIVE JULY 1, 2011] **(a) The office of the**  
 40          **secretary of the family and social services administration and the**  
 41          **division of mental health and addiction shall prepare a report on**  
 42          **the availability and use of mental health drugs in Indiana to be**  
 43          **presented to the select joint commission on Medicaid oversight and**  
 44          **the commission on mental health and addiction before November**  
 45          **1, 2011.**

46          **(b) This SECTION expires December 1, 2011.**

47          SECTION 33. **An emergency is declared for this act.**

(Reference is to ESB 88 as reprinted April 13, 2011.)

**Conference Committee Report**  
on  
**Engrossed Senate Bill 88**

**S**igned by:

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Senator Lawson C  
Chairperson

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Representative Brown T

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Senator Breaux

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Representative Brown C

**Senate Conferees**

**House Conferees**