
SENATE BILL No. 597

DIGEST OF INTRODUCED BILL

Citations Affected: IC 12-7-2; IC 12-9.5; IC 12-15-5-1; IC 12-15-46-3.

Synopsis: Brain injury services. Establishes the division of brain injury and cognitive rehabilitative services (division) within the office of the secretary of family and social services and sets forth the division's duties. Establishes the office of client rights and protections within the division. Establishes the program and policy review advisory committee. Requires Medicaid to include traumatic brain injury services. Requires the office of Medicaid policy and planning to apply to the United States Department of Health and Human Services for a Medicaid waiver to provide brain injury services to individuals with traumatic brain injuries and other acquired brain injuries.

Effective: Upon passage.

Becker

January 15, 2013, read first time and referred to Committee on Health and Provider Services.

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First Regular Session 118th General Assembly (2013)

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 2012 Regular Session of the General Assembly.

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SENATE BILL No. 597



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 12-7-2-1.1 IS ADDED TO THE INDIANA CODE
- 2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE
- 3 UPON PASSAGE]: **Sec. 1.1. "Acquired brain injury", for purposes**
- 4 **of IC 12-9.5, has the meaning set forth in IC 12-9.5-5-1.**
- 5 SECTION 2. IC 12-7-2-23.5 IS ADDED TO THE INDIANA CODE
- 6 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE
- 7 UPON PASSAGE]: **Sec. 23.5. "Brain injury services", for purposes**
- 8 **of IC 12-9.5, has the meaning set forth in IC 12-9.5-5-2.**
- 9 SECTION 3. IC 12-7-2-69, AS AMENDED BY P.L.6-2012,
- 10 SECTION 82, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 11 UPON PASSAGE]: Sec. 69. (a) "Division", except as provided in
- 12 subsections (b) and (c), refers to any of the following:
- 13 (1) The division of disability and rehabilitative services
- 14 established by IC 12-9-1-1.
- 15 (2) The division of aging established by IC 12-9.1-1-1.
- 16 (3) **The division of brain injury and cognitive rehabilitative**
- 17 **services established by IC 12-9.5-1-1.**



- 1 ~~(3)~~ **(4)** The division of family resources established by
 2 IC 12-13-1-1.
 3 ~~(4)~~ **(5)** The division of mental health and addiction established by
 4 IC 12-21-1-1.
 5 (b) The term refers to the following:
 6 (1) For purposes of the following statutes, the division of
 7 disability and rehabilitative services established by IC 12-9-1-1:
 8 (A) IC 12-9.
 9 (B) IC 12-11.
 10 (C) IC 12-12.
 11 (D) IC 12-12.5.
 12 (E) IC 12-12.7.
 13 (F) IC 12-15-46-2.
 14 (G) IC 12-28-5.
 15 (2) For purposes of the following statutes, the division of aging
 16 established by IC 12-9.1-1-1:
 17 (A) IC 12-9.1.
 18 (B) IC 12-10.
 19 **(3) For purposes of IC 12-9.5, the division of brain injury and**
 20 **cognitive rehabilitative services established by IC 12-9.5-1-1.**
 21 ~~(3)~~**(4)** For purposes of the following statutes, the division of
 22 family resources established by IC 12-13-1-1:
 23 (A) IC 12-13.
 24 (B) IC 12-14.
 25 (C) IC 12-15.
 26 (D) IC 12-16.
 27 (E) IC 12-17.2.
 28 (F) IC 12-18.
 29 (G) IC 12-19.
 30 (H) IC 12-20.
 31 ~~(4)~~**(5)** For purposes of the following statutes, the division of
 32 mental health and addiction established by IC 12-21-1-1:
 33 (A) IC 12-21.
 34 (B) IC 12-22.
 35 (C) IC 12-23.
 36 (D) IC 12-25.
 37 (c) With respect to a particular state institution, the term refers to
 38 the division whose director has administrative control of and
 39 responsibility for the state institution.
 40 (d) For purposes of IC 12-24, IC 12-26, and IC 12-27, the term
 41 refers to the division whose director has administrative control of and
 42 responsibility for the appropriate state institution.

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1 SECTION 4. IC 12-7-2-192.8 IS ADDED TO THE INDIANA
2 CODE AS A NEW SECTION TO READ AS FOLLOWS
3 [EFFECTIVE UPON PASSAGE]: **Sec. 192.8. "Traumatic brain
4 injury", for purposes of IC 12-9.5, has the meaning set forth in
5 IC 12-9.5-5-3.**

6 SECTION 5. IC 12-9.5 IS ADDED TO THE INDIANA CODE AS
7 A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE UPON
8 PASSAGE]:

9 **ARTICLE 9.5. DIVISION OF BRAIN INJURY AND**
10 **COGNITIVE REHABILITATIVE SERVICES**

11 **Chapter 1. Establishment of Division**

12 **Sec. 1. The division of brain injury and cognitive rehabilitative**
13 **services is established within the office of the secretary of family**
14 **and social services.**

15 **Sec. 2. IC 12-8-8.5 applies to the division.**

16 **Sec. 3. The office of client rights and protections established by**
17 **IC 12-9.5-4-1 is part of the division.**

18 **Chapter 2. Director of Division and Personnel**

19 **Sec. 1. The division shall be administered by a director**
20 **appointed under IC 12-8-8.5-1.**

21 **Sec. 2. IC 12-8-8.5 applies to the director.**

22 **Sec. 3. The director may do the following:**

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

25 **(2) Utilize, with their consent, the services and facilities of**
26 **other state agencies without reimbursement.**

27 **(3) Accept in the name of the division, for use in carrying out**
28 **the functions of the division, money or property received by**
29 **gift, bequest, or otherwise.**

30 **(4) Accept voluntary and uncompensated services.**

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

33 **(6) Adopt rules under IC 4-22-2 necessary to carry out the**
34 **functions of the division.**

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

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

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

40 **Sec. 4. The director may, with the approval of the budget**
41 **agency, hire the personnel necessary to perform the duties of the**
42 **division.**

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1 **Sec. 5. (a) If a member, an officer, or an employee of the division**
 2 **is accused of an offense or sued for civil damages because of an act**
 3 **performed:**

4 **(1) within the course of the individual's employment; or**

5 **(2) under the authority or order of a superior officer;**

6 **the attorney general shall defend the individual in an action for**
 7 **civil damages. If the action or proceeding is criminal in nature, the**
 8 **governor shall designate counsel to represent and defend the**
 9 **accused, and the state is financially responsible for the expense of**
 10 **the defense.**

11 **(b) This section does not do either of the following:**

12 **(1) Deprive an individual of the right to select defense counsel**
 13 **of the individual's choice at the individual's expense.**

14 **(2) Relieve any person from responsibility in civil damages.**

15 **Chapter 3. Duties of Division**

16 **Sec. 1. (a) The division shall establish a statewide network of**
 17 **brain injury and cognitive rehabilitative services for residents who**
 18 **have traumatic brain injuries and other acquired brain injuries**
 19 **and cognitive impairments resulting from the brain injuries with**
 20 **the following objectives:**

21 **(1) Assist an individual with a brain injury or cognitive**
 22 **impairment to receive necessary services for recovery to the**
 23 **extent possible to return the individual to the condition the**
 24 **individual was in before the brain injury.**

25 **(2) Continue the individual's rehabilitation for as long as**
 26 **necessary.**

27 **(3) Reestablish, to the extent possible, the individual's**
 28 **independence through home and community based service**
 29 **settings.**

30 **(4) Assist the individual with ongoing rehabilitative,**
 31 **employment, cognitive-social, housing, and transportation**
 32 **needs.**

33 **(b) The statewide network of services must include the**
 34 **following:**

35 **(1) Trauma care.**

36 **(2) Acute care.**

37 **(3) Post-acute care.**

38 **(4) Rehabilitative services.**

39 **These services must be available to any resident who qualifies for**
 40 **the services under this article.**

41 **(c) The division shall collaborate with public and private entities**
 42 **to provide the services described in this section, including the**

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1 following entities:

- 2 (1) Medical community.
 3 (2) Rehabilitation facilities.
 4 (3) Therapists.
 5 (4) Support groups.
 6 (5) Community-based groups.

7 **Chapter 4. The Office of Client Rights and Protections**

8 **Sec. 1. (a) The office of client rights and protections is**
 9 **established as a part of the division.**

10 (b) The director of the division, in consultation with
 11 organizations that represent individuals with traumatic brain
 12 injuries and other acquired brain injuries, shall appoint a deputy
 13 director to oversee the office.

14 **Sec. 2. The office may review any program or policy established**
 15 **by the division for the impact of the program or the policy on the**
 16 **civil and human rights of individuals receiving brain injury**
 17 **services.**

18 **Sec. 3. (a) Not later than August 1, 2013, the deputy director**
 19 **appointed under section 1(b) of this chapter shall appoint an**
 20 **advisory committee consisting of at least seven (7) individuals**
 21 **recommended by an organization that represents individuals with**
 22 **traumatic brain injuries and other acquired brain injuries. The**
 23 **committee shall advise the office on matters affecting the civil and**
 24 **human rights of individuals receiving services under this article.**

25 (b) A member of the committee who is not a state employee is
 26 entitled to both of the following:

- 27 (1) The minimum salary per diem provided by
 28 IC 4-10-11-2.1(b).
 29 (2) Reimbursement for travel expenses and other expenses
 30 actually incurred in connection with the member's duties, as
 31 provided in the state travel policies and procedures
 32 established by the Indiana department of administration and
 33 approved by the budget agency.

34 (c) A member of the committee who is a state employee is
 35 entitled to reimbursement for travel expenses and other expenses
 36 actually incurred in connection with the member's duties, as
 37 provided in the state travel policies and procedures established by
 38 the Indiana department of administration and approved by the
 39 budget agency.

40 (d) The committee shall meet at least four (4) times during a
 41 state fiscal year.

42 **Chapter 5. Brain Injury Services**

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1 **Sec. 1. As used in this article, "acquired brain injury" means an**
 2 **injury to the brain that has occurred after birth and is not**
 3 **hereditary, congenital, degenerative, or induced by birth trauma.**
 4 **The term includes brain injury resulting from a stroke, near**
 5 **drowning, hypoxic or anoxic injury, traumatic injury, tumor,**
 6 **neurotoxins, electric shock, or lightning strike.**

7 **Sec. 2. As used in this article, "brain injury services" means**
 8 **medical treatment, therapy, and other services provided to an**
 9 **individual diagnosed with an acquired brain injury to restore or**
 10 **maintain the individual's preinjury level of cognitive and physical**
 11 **function. The term may include the following services:**

- 12 (1) **Acute and sub-acute care.**
 13 (2) **Long term medical care.**
 14 (3) **The following therapy:**
 15 (A) **Cognitive.**
 16 (B) **Behavioral.**
 17 (C) **Physical.**
 18 (D) **Neurological.**
 19 (E) **Psychological.**
 20 (4) **Assistance with functional services, including activities of**
 21 **daily living.**
 22 (5) **Life skills training.**
 23 (6) **Prevocational and vocational services.**
 24 (7) **Resource facilitation.**
 25 (8) **Respite care.**

26 **Sec. 3. As used in this article, "traumatic brain injury" means**
 27 **an acquired brain injury that results in an alteration of brain**
 28 **function or other evidence of brain pathology that was caused by**
 29 **an external force.**

30 **Sec. 4. An individual is eligible for brain injury services under**
 31 **this article if the individual meets the following:**

- 32 (1) **Has been diagnosed by a physician licensed under**
 33 **IC 25-22.5 as having a traumatic brain injury or other**
 34 **acquired brain injury.**
 35 (2) **Either:**
 36 (A) **is a Medicaid recipient; or**
 37 (B) **qualifies for services under the Medicaid traumatic or**
 38 **acquired injury waiver applied for under IC 12-15-46-3.**

39 **Sec. 5. The division shall fund the provision of brain injury**
 40 **services through the following:**

- 41 (1) **Federal funds.**
 42 (2) **State appropriated funds.**

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1 (3) Funds provided by public and private entities.

2 (4) Funds provided by individuals using the services.

3 **Sec. 6. Not later than January 1, 2014, the secretary and the**
 4 **director of the division shall provide to the governor and the**
 5 **general assembly the following:**

6 (1) A written plan for implementing and funding:

7 (A) the provisions of this article;

8 (B) IC 12-15-5-1(24).

9 (C) IC 12-15-46-3.

10 (2) Identification of the services to be provided to eligible
 11 individuals under this article.

12 **Chapter 6. Program and Policy Review Advisory Committee**

13 **Sec. 1. (a) The program and policy review advisory committee**
 14 **is established. The advisory committee consists of the following**
 15 **members:**

16 (1) The secretary, who serves as chairperson of the advisory
 17 committee.

18 (2) The chairperson of the health finance commission
 19 established by IC 2-5-23-3.

20 (3) The vice chairperson of the select joint commission on
 21 Medicaid oversight established by IC 2-5-26-3.

22 (4) A member of the health finance commission that
 23 represents a minority party of the general assembly.

24 (5) A member of the select joint commission on Medicaid
 25 oversight that represents a minority part of the general
 26 assembly.

27 (6) Three (3) individuals who have brain injuries, appointed
 28 by the governor.

29 (7) Three (3) individuals who are caregivers or family
 30 members of an individual with brain injuries, appointed by
 31 the governor.

32 (8) The following members who shall serve as nonvoting
 33 advisors:

34 (A) The director of the division.

35 (B) The deputy director of the office of client rights and
 36 protections.

37 (C) The state budget director, or the budget director's
 38 designee.

39 (b) The advisory committee shall meet at least four (4) times
 40 during the state fiscal year.

41 (c) The appointments under this section shall be made by the
 42 governor not later than July 1, 2013.

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1 **Sec. 2. The members described in section 1(a)(6) and section**
 2 **1(a)(7) of this chapter are entitled to both of the following:**

3 **(1) The minimum salary per diem provided by**
 4 **IC 4-10-11-2.1(b).**

5 **(2) Reimbursement for travel expenses and other expenses**
 6 **actually incurred in connection with the member's duties, as**
 7 **provided in the state travel policies and procedures**
 8 **established by the Indiana department of administration and**
 9 **approved by the budget agency.**

10 **Sec. 3. The advisory committee shall advise the secretary**
 11 **regarding the policies, programs, and funding needed to implement**
 12 **the following:**

13 **(1) This article.**

14 **(2) IC 12-15-5-1(24).**

15 **(3) IC 12-15-46-3.**

16 SECTION 6. IC 12-15-5-1 IS AMENDED TO READ AS
 17 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. Except as
 18 provided in IC 12-15-2-12, IC 12-15-6, and IC 12-15-21, the following
 19 services and supplies are provided under Medicaid:

20 (1) Inpatient hospital services.

21 (2) Nursing facility services.

22 (3) Physician's services, including services provided under
 23 IC 25-10-1 and IC 25-22.5-1.

24 (4) Outpatient hospital or clinic services.

25 (5) Home health care services.

26 (6) Private duty nursing services.

27 (7) Physical therapy and related services.

28 (8) Dental services.

29 (9) Prescribed laboratory and x-ray services.

30 (10) Prescribed drugs and services.

31 (11) Eyeglasses and prosthetic devices.

32 (12) Optometric services.

33 (13) Diagnostic, screening, preventive, and rehabilitative services.

34 (14) Podiatric medicine services.

35 (15) Hospice services.

36 (16) Services or supplies recognized under Indiana law and
 37 specified under rules adopted by the office.

38 (17) Family planning services except the performance of
 39 abortions.

40 (18) Nonmedical nursing care given in accordance with the tenets
 41 and practices of a recognized church or religious denomination to
 42 an individual qualified for Medicaid who depends upon healing

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1 by prayer and spiritual means alone in accordance with the tenets
2 and practices of the individual's church or religious denomination.

3 (19) Services provided to individuals described in IC 12-15-2-8
4 and IC 12-15-2-9.

5 (20) Services provided under IC 12-15-34 and IC 12-15-32.

6 (21) Case management services provided to individuals described
7 in IC 12-15-2-11 and IC 12-15-2-13.

8 (22) Any other type of remedial care recognized under Indiana
9 law and specified by the United States Secretary of Health and
10 Human Services.

11 (23) Examinations required under IC 16-41-17-2(a)(10).

12 **(24) Traumatic brain injury services and other acquired brain**
13 **injury services.**

14 SECTION 7. IC 12-15-46-3 IS ADDED TO THE INDIANA CODE
15 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE
16 UPON PASSAGE]: **Sec. 3. (a) The office, in collaboration with the**
17 **division of brain injury and cognitive rehabilitative services, shall**
18 **apply to the United States Department of Health and Human**
19 **Services for a Medicaid waiver to provide services for individuals**
20 **who have:**

21 (1) traumatic brain injuries or other acquired brain injuries;
22 and

23 (2) an income of not more than three hundred percent (300%)
24 of the federal Supplemental Security Income level.

25 (b) An individual's participation in the following programs may
26 not disqualify the individual from participating in the Medicaid
27 waiver described in subsection (a):

28 (1) Social security benefits, including Supplemental Security
29 Income and Social Security Disability Insurance.

30 (2) Unemployment compensation.

31 (3) Worker's compensation.

32 (4) Medicaid.

33 (5) Community and home options to institutional care for the
34 elderly and disabled program (CHOICE).

35 (6) Assistance from the United States Department of Veterans
36 Affairs.

37 (7) Any other public assistance program administered by
38 Indiana or the federal government.

39 SECTION 8. An emergency is declared for this act.

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