Reprinted
February 20, 2013

SENATE BILL No. 464

DIGEST OF SB 464 (Updated February 19, 2013 3:14 pm - DI 73)

Citations Affected: IC 20-26.

Synopsis: Education funding for children in residential care. Provides that if a student is placed in a state licensed residential mental health facility under written orders of a licensed physician, if the student receives educational services provided by the facility, and if certain other conditions are satisfied, the school corporation receiving state tuition support for the student at the time of the student's admission to the facility shall pay the facility a per diem for the educational services provided by the facility to the student during the student's admission in the facility. Specifies that the amount such a school corporation shall pay to a facility is the amount, prorated according to the number of instructional days for which the student receives the educational services, that is equal to: (1) the student's proportionate share of basic tuition support distributions that are made to the school corporation for the school year; and (2) any special education grants received for the student. Requires a facility to provide written notice to the school

(Continued next page)

Effective: July 1, 2013.

Kruse, Banks, Broden

January 10, 2013, read first time and referred to Committee on Education and Career Development.
February 14, 2013, amended, reported favorably — Do Pass.
February 19, 2013, read second time, amended, ordered engrossed.

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Digest Continued

corporation not later than five business days after a student is admitted to the facility. Provides that for each student admitted to a facility, the facility shall provide the following in accordance with rules adopted by the state board of education: (1) An educational opportunity, including special education and related services, that is comparable to that of a student attending a school in the school corporation. (2) A level of educational services from the facility that is comparable to that of a student attending a school in the school corporation. Requires that the educational services at a facility must be provided by licensed teachers. Provides that the state board of education shall adopt a rule that addresses the responsibilities of the school corporation and the facility with regard to a student with an individualized education program. Requires the state board of education to adopt rules to implement these provisions, and allows the state board to adopt emergency rules.

C o p y

Reprinted
February 20, 2013

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. 464

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

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

SECTION 1. IC 20-26-11-11.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: **Sec. 11.5. (a) The following definitions apply to this section:**

(1) "ADM" means average daily membership (as defined in IC 20-18-2-2).

(2) "Facility" means a state licensed residential mental health facility.

(3) "School corporation" means the Indiana school or charter school that is receiving state tuition support for the student at the time of the student's admission to the facility.

(4) "Student" means an individual who:

(A) is more than five (5) years of age and less than twenty-three (23) years of age;

(B) has been admitted to a facility; and

(C) was enrolled in a school corporation during the school year immediately preceding the student's admission to the

facility.

(b) This section applies to a student if:

(1) the student is placed in a facility under the written order of a physician licensed under IC 25-22.5;

(2) the written order of the physician licensed under IC 25-22.5 is based on medical necessity, as determined by a physician licensed under IC 25-22.5; and

(3) the student receives educational services provided by the facility.

(c) A facility shall provide written notice to the school corporation not later than five (5) business days (excluding weekends and holidays) after a student described in subsection (b) is admitted to the facility. The written notice must include the following:

(1) The student's name, address, and date of birth.

(2) The date on which the student was admitted to the facility.

(3) A copy of the physician's written order.

(4) A statement that the student has opted out of attending school under IC 20-26-11-8; and

(4) a statement that the facility will provide all educational services to the student during the student's admission in the facility.

(d) The school corporation shall pay the facility a daily per diem as determined under subsection (e) for the educational services provided by the facility to the student during the student's admission in the facility. The school corporation may not be required to pay for any educational services provided to the student by the facility exceeding one hundred eighty (180) instructional days or an amount exceeding the student's proportionate share of state distributions paid to the school corporation, as determined under subsection (e).

(e) A school corporation shall pay to the facility an amount, prorated according to the number of instructional days for which the student receives the educational services, equal to:

(1) the student's proportionate share (as compared to the school corporation's total ADM) of basic tuition support (as determined under IC 20-43-6-3(b)) distributions that are made to the school corporation for the school year; and

(2) any special education grants received by the school corporation for the student under IC 20-43-7.

Upon request of a facility, the department shall verify the amounts described in this subsection for a student admitted to the facility.

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(f) A school corporation responsible for making a per diem payment under this section shall pay the facility not later than sixty (60) days after receiving an invoice from the facility. The school corporation and the facility are entitled to the same remedies for disagreements over amounts or nonpayment of an amount due as are provided under the laws governing transfer tuition.

(g) For each student admitted to a facility, the facility shall provide the following in accordance with rules adopted by the state board:

(1) An educational opportunity, including special education and related services, that is comparable to that of a student attending a school in the school corporation.

(2) A level of educational services from the facility that is comparable to that of a student attending a school in the school corporation.

(3) Unless otherwise provided in a student's individualized education program (as defined in IC 20-18-2-9), educational services that include at least the following:

(A) An instructional day that meets the requirements of IC 20-30-2-2.

(B) A school year with at least one hundred eighty (180) student instructional days as provided under IC 20-30-2-3.

(C) Educationally appropriate textbooks and other materials.

(D) Educational services provided by licensed teachers.

(h) The state board shall adopt a rule that addresses the responsibilities of the school corporation and the facility with regard to a student with an individualized education program.

(i) This section does not limit a student's right to attend a school as provided in IC 20-26-11-8.

(j) The state board shall adopt rules under IC 4-22-2 as necessary to implement this section.

(i) The state board may adopt emergency rules in the manner provided in IC 4-22-2-37.1 to implement this section.

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COMMITTEE REPORT

Madam President: The Senate Committee on Education and Career Development, to which was referred Senate Bill No. 464, 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 1, delete lines 13 through 17, begin a new line block indented and insert:

"(4) the student:

(A) is enrolled in the student's school corporation of legal settlement in Indiana; or

(B) is not enrolled in a school corporation in Indiana, but was enrolled in a school corporation in Indiana in the previous school year; and

(5) the facility will provide educational services to the student during the student's admission in the facility.

(c) A facility shall provide written notice as follows not later than five (5) business days (excluding weekends and holidays) after a student described in subsection (b) is admitted to the facility:

(1) If the student is admitted to the facility during the school year and before the date of the fall count of ADM under IC 20-43-4-3, the facility shall provide written notice to:

(A) the student's school corporation of legal settlement; and

(B) the department.

(2) If the student is admitted to the facility during the school year and on or after the date of the fall count of ADM under IC 20-43-4-3, the facility shall provide written notice to the school corporation that included the student in its ADM count for that school year. Upon request of a facility, the department shall verify which school corporation included the student in its ADM count for that school year.

The written notice must specify that the student has been admitted to the facility and that the facility will provide educational services to the student during the student's admission in the facility.

(d) A school corporation that includes a student described in subsection (b) in its ADM for the school year in which the student receives educational services provided by the facility shall pay the facility a daily per diem as determined under subsection (e) for the educational services provided by the facility to the student during the student's admission in the facility. The school corporation may not be required to pay for any educational services provided to the

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student by the facility exceeding one hundred eighty (180) instructional days or an amount exceeding the student's proportionate share of state distributions paid to the school corporation, as determined under subsection (e). In the case of a student described in subsection (b)(4)(B), the school corporation in which the facility is located shall include the student in its ADM for the school year.

(e) A school corporation that includes a student described in subsection (b) in its ADM for the school year in which the student receives educational services provided by the facility shall pay to the facility an amount, prorated according to the number of instructional days for which the student receives the educational services, equal to:

(1) the student's proportionate share (as compared to the school corporation's total ADM) of basic tuition support (as determined under IC 20-43-6-3(b)) distributions that are made to the school corporation for the school year; and

(2) any special education grants received by the school corporation for the student under IC 20-43-7.

Upon request of a facility, the department shall verify the amounts described in this subsection for a student admitted to the facility.

(f) A school corporation responsible for making a per diem payment under this section shall pay the facility not later than sixty (60) days after receiving an invoice from the facility. The facility is entitled to the same remedies for nonpayment of an amount due under this section as are provided under the laws governing failure to pay transfer tuition.

(g) A student admitted to a facility as provided in this section must receive the following minimum educational services:

(1) An educational opportunity comparable to that of a student attending a school operated by the school corporation that includes the student in the school corporation's ADM for the school year.

(2) A level of educational services from the facility that is comparable to the level of educational services received by a student who physically attends school in a school operated by the school corporation that includes the student in the school corporation's ADM for the school year.

(3) Unless otherwise provided in a student's individualized education program (as defined in IC 20-18-2-9), educational services must include at least the following:

(A) An instructional day that meets the requirements of

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IC 20-30-2-2.

(B) A school year with at least one hundred eighty (180) student instructional days as provided under IC 20-30-2-3.

(C) Educationally appropriate textbooks and other materials.

(D) Educational services provided by licensed teachers.

(h) A school corporation that includes a student described in subsection (b) in its ADM for the school year in which the student receives educational services provided by the facility is responsible for implementing or causing to be implemented any individualized education program that is required. However, the school corporation may coordinate with the facility to ensure that all necessary services are provided to the student under the individualized education program while the student is admitted in the facility. This section is intended to ensure that a student's individual education program is administered and that payment for educational services related to the individualized education program is provided to the facility. This section does not create any obligation on the school corporation to provide payment for costs related to the student's residential stay and treatment in the facility.

(i) This section does not limit a student's right to attend a school as provided in IC 20-26-11-8.

(j) The state board may adopt rules under IC 4-22-2 as necessary to implement this section.".

Delete pages 2 through 3.

and when so amended that said bill do pass.

(Reference is to SB 464 as introduced.)

KRUSE, Chairperson

Committee Vote: Yeas 11, Nays 0.

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SENATE MOTION

Madam President: I move that Senate Bill 464 be amended to read as follows:

Page 1, line 3, delete "As used in this section," and insert "**The following definitions apply to this section:**

(1) "ADM" means average daily membership (as defined in IC 20-18-2-2).

(2) "Facility" means a state licensed residential mental health facility.

(3) "School corporation" means the Indiana school or charter school that is receiving state tuition support for the student at the time of the student's admission to the facility.

(4) "Student" means an individual who:

(A) is more than five (5) years of age and less than twenty-three (23) years of age;

(B) has been admitted to a facility; and

(C) was enrolled in a school corporation during the school year immediately preceding the student's admission to the facility.".

Page 1, delete line 4.

Page 1, line 10, after "IC 25-22.5;" insert "**and**".

Page 1, line 12, after "facility" delete ";" and insert "**.**".

Page 1, delete lines 13 through 17.

Page 2, delete lines 1 through 22, begin a new paragraph and insert:

"**(c) A facility shall provide written notice to the school corporation not later than five (5) business days (excluding weekends and holidays) after a student described in subsection (b) is admitted to the facility. The written notice must include the following:**

(1) The student's name, address, and date of birth.

(2) The date on which the student was admitted to the facility.

(3) A copy of the physician's written order.

(4) A statement that the student has opted out of attending school under IC 20-26-11-8; and

(4) a statement that the facility will provide all educational services to the student during the student's admission in the facility.".

Page 2, line 23, delete "A" and insert "**The**".

Page 2, line 23, delete "that includes a student described in".

Page 2, delete line 24.

Page 2, line 25, delete " receives educational services provided by the facility".

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Page 2, run in lines 23 through 25.

Page 2, line 33, delete "In the case of a".

Page 2, delete lines 34 through 36.

Page 2, line 37, delete "that includes a student described in".

Page 2, delete line 38.

Page 2, line 39, delete "receives educational services provided by the facility".

Page 2, run in lines 37 through 39.

Page 3, line 11, after "The" insert "**school corporation and the**".

Page 3, line 11, delete "is" and insert "**are**".

Page 3, line 12, after "for" insert "**disagreements over amounts or**".

Page 3, line 13, delete "under this section".

Page 3, line 13, delete "failure".

Page 3, line 14, delete "to pay".

Page 3, delete lines 15 through 25, begin a new paragraph and insert:

"**(g) For each student admitted to a facility, the facility shall provide the following in accordance with rules adopted by the state board:**

(1) An educational opportunity, including special education and related services, that is comparable to that of a student attending a school in the school corporation.

(2) A level of educational services from the facility that is comparable to that of a student attending a school in the school corporation.".

Page 3, line 28, delete "must" and insert "**that**".

Page 3, delete lines 36 through 42, begin a new paragraph and insert:

"**(h) The state board shall adopt a rule that addresses the responsibilities of the school corporation and the facility with regard to a student with an individualized education program.**".

Page 4, delete lines 1 through 8.

Page 4, line 11, delete "may" and insert "**shall**".

Page 4, after line 12, begin a new paragraph and insert:

"**(i) The state board may adopt emergency rules in the manner provided in IC 4-22-2-37.1 to implement this section.**".

(Reference is to SB 464 as printed February 15, 2013.)

KRUSE

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