

First Regular Session of the 120th General Assembly (2017)

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 2016 Regular Session of the General Assembly.

HOUSE ENROLLED ACT No. 1006

AN ACT to amend the Indiana Code concerning health.

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

SECTION 1. IC 12-7-2-158.2 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: **Sec. 158.2. "Recovery residence" means an abstinence based living environment for individuals that promotes recovery from:**

(1) alcohol; and

(2) other drug;

abuse and related issues. An abstinence based living environment, for purposes of opioid addiction, may include individuals who are in a treatment that includes medication assisted treatment with a goal of opioid abstinence or the minimum clinically necessary medication dose.

SECTION 2. IC 12-21-2-3, AS AMENDED BY HEA 1335-2017, SECTION 2, AND AS AMENDED BY SEA 402-2017, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: **Sec. 3.** The secretary or the secretary's designee shall do the following:

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

(2) Subject to the approval of the state personnel department,

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establish personnel qualifications for all deputy directors, assistant directors, bureau heads, and superintendents.

(3) Subject to the approval of the budget director and the governor, establish the compensation of all deputy directors, assistant directors, bureau heads, and superintendents.

(4) Study the entire problem of mental health, mental illness, and addictions existing in Indiana.

(5) Adopt rules under IC 4-22-2 for the following:

(A) Standards for the operation of private institutions that are licensed under IC 12-25 for the diagnosis, treatment, and care of individuals with psychiatric disorders, addictions, or other abnormal mental conditions.

(B) Licensing or certifying community residential programs described in IC 12-22-2-3.5 for individuals with serious mental illness (SMI), serious emotional disturbance (SED), or chronic addiction (CA) with the exception of psychiatric residential treatment facilities.

(C) Certifying community mental health centers to operate in Indiana.

(D) Establish exclusive geographic primary service areas for community mental health centers. The rules must include the following:

(i) Criteria and procedures to justify the change to the boundaries of a community mental health center's primary service area.

(ii) Criteria and procedures to justify the change of an assignment of a community mental health center to a primary service area.

(iii) A provision specifying that the criteria and procedures determined in items (i) and (ii) must include an option for the county and the community mental health center to initiate a request for a change in primary service area or provider assignment.

(iv) A provision specifying the criteria and procedures determined in items (i) and (ii) may not limit an eligible consumer's right to choose or access the services of any provider who is certified by the division of mental health and addiction to provide public supported mental health services.

(6) Institute programs, in conjunction with an accredited college or university and with the approval, if required by law, of the commission for higher education, for the instruction of students



of mental health and other related occupations. The programs may be designed to meet requirements for undergraduate and postgraduate degrees and to provide continuing education and research.

(7) Develop programs to educate the public in regard to the prevention, diagnosis, treatment, and care of all abnormal mental conditions.

(8) Make the facilities of the state institutions available for the instruction of medical students, student nurses, interns, and resident and fellow physicians under the supervision of the faculty of any accredited school of medicine or osteopathy located in Indiana or an accredited residency or fellowship training program in connection with research and instruction in psychiatric disorders.

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

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

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

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

(13) Establish standards for services described in IC 12-7-2-40.6 for community mental health centers and other providers.

(14) Provide that the standards for services provided by recovery residences for residential care and supported housing for chronic addiction, when used as a recovery residence, to:

(A) be certified through an entity approved by the division to ensure adherence to standards determined by the National Alliance for Recovery Residences (NARR) or a similar entity; and

(B) meet other standards established by the division under rules adopted under IC 4-22-2.

SECTION 3. IC 12-21-5-1.5, AS AMENDED BY P.L.143-2011, SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 1.5. **(a)** The division shall do the following:

(1) Adopt rules under IC 4-22-2 to establish and maintain criteria to determine patient eligibility and priority for publicly supported mental health and addiction services. The rules must include



criteria for patient eligibility and priority based on the following:

- (A) A patient's income.
 - (B) A patient's level of daily functioning.
 - (C) A patient's prognosis.
- (2) Within the limits of appropriated funds, contract with a network of providers to provide services in an appropriate setting that is the least restrictive to individuals who qualify for the services.
- (3) Require the providers of services funded directly by the division to be in good standing with an appropriate accrediting body as required by rules adopted under IC 4-22-2 by the division.
- (4) Develop a provider profile that must be used to evaluate the performance of a provider. A provider's profile must include input from consumers, citizens, and representatives of the mental health ombudsman program (IC 12-27-9) regarding the provider's:
- (A) information provided to the patient on patient rights before treatment;
 - (B) accessibility, acceptability, and continuity of services provided or requested; and
 - (C) total cost of care per individual, using state administered funds.
- (5) Ensure compliance with all other performance criteria set forth in a provider contract. In addition to the requirements set forth in IC 12-21-2-7, a provider contract must include the following:
- (A) A requirement that the standards and criteria used in the evaluation of care plans be available and accessible to the patient.
 - (B) A requirement that the provider involve the patient in the choice of and preparation of the treatment plan to the greatest extent feasible.
 - (C) A provision encouraging the provider to intervene in a patient's situation as early as possible, balancing the patient's right to liberty with the need for treatment.
 - (D) A requirement that the provider set up and implement an internal appeal process for the patient.
- (6) Establish a toll free telephone number that operates during normal business hours for individuals to make comments to the division in a confidential manner regarding services or service providers.
- (7) Develop a confidential system to evaluate complaints and



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

(8) Ensure that providers of services of residential care and supported housing for chronic addiction, when used as a recovery residence that receives reimbursement from the office, acquire and maintain the certification required in IC 12-21-2-3(14).

(b) The division may adopt rules under IC 4-22-2 to establish standards for residential care and supported housing for chronic addiction when used as a recovery residence.

SECTION 4. IC 12-23-19-2, AS ADDED BY P.L.209-2015, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 2. (a) An individual is eligible for mental health and addiction forensic treatment services if:

(1) the individual:

(A) is a member of a household with an annual income that does not exceed two hundred percent (200%) of the federal income poverty level;

(B) is a resident of Indiana;

(C) is:

(i) at least eighteen (18) years of age; or

(ii) subject to the approval of the Indiana commission to combat drug abuse, less than eighteen (18) years of age and the individual is a defendant whose case is either waived from juvenile court to adult court or directly filed in adult court; and

(D) has entered the criminal justice system as a felon or with a prior felony conviction; and

(2) subject to subsection (b), reimbursement for the service is not available to the individual through any of the following:

(A) A policy of accident and sickness insurance (IC 27-8-5).

(B) A health maintenance organization contract (IC 27-13).

(C) The Medicaid program (IC 12-15), excluding the Medicaid rehabilitation program and the Behavioral and Primary Health Coordination Program under Section 1915(i) of the Social Security Act.

(D) The federal Medicare program or any other federal



assistance program.

(b) If an individual is not entitled to reimbursement from the sources described in subsection (a)(2) of the full amount of the cost of the mental health and addiction forensic treatment services, grants and vouchers under this chapter may be used to provide those services to the extent that the costs of those services exceed the reimbursement the individual is entitled to receive from the sources described in subsection (a)(2), excluding any copayment or deductible that the individual is required to pay.

(c) The division shall determine the extent to which an individual who is provided mental health and addiction forensic treatment services under this chapter is entitled to receive reimbursement from the sources described in subsection (a)(2).

SECTION 5. IC 12-23-19-7, AS ADDED BY P.L.209-2015, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 7. **(a)** The division shall survey individuals receiving mental health and addiction forensic treatment services under this chapter. The division shall survey and develop demographic research on such an individual one (1) year after the individual begins receiving the services. The survey must request information concerning:

- (1) the employment status of the individual since the individual began receiving the services; and
- (2) whether the individual has been arrested, convicted of a crime, alleged to have violated probation, or placed in a community corrections program as an alternative to commitment to the department of correction since the individual began receiving the services.

(b) The division shall report to the justice reinvestment advisory council established by IC 33-38-9.5-2 any findings from the survey under subsection (a) concerning providing mental health and addiction forensic treatment services to individuals charged with a misdemeanor offense.

SECTION 6. IC 31-26-3.5-1.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 1.5. **As used in this chapter, "child welfare substance abuse treatment services" includes the following:**

- (1) Addiction counseling.**
- (2) Inpatient detoxification.**
- (3) Medication assisted treatment, including a federal Food and Drug Administration approved long acting, nonaddictive**



medication for the treatment of opioid or alcohol dependence.

SECTION 7. IC 31-26-3.5-2, AS ADDED BY P.L.146-2008, SECTION 570, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 2. A child welfare program may be established and funded by the department for any of the following purposes:

(1) Protecting and promoting the welfare of children in a community who are, or are likely to be, at risk of becoming homeless, neglected, or abused due to lack of adequate or appropriate parental support or supervision, in order to reduce the likelihood that the children will become wards of a juvenile court or the department.

(2) Preventing, remedying, or assisting in the solution of problems that may result in the neglect, abuse, exploitation, or delinquency of children.

(3) Preventing unnecessary separation of children from their families by identifying family problems, assisting in the resolution of family problems, and preventing the breakup of families whenever prevention of child removal is possible and desirable.

(4) Providing services targeted to the assistance of children who are developmentally or physically disabled and their families, for the purposes of prevention of potential abuse, neglect, or abandonment of those children, and enabling the children to receive adequate family support and preparation to become self-supporting to the extent feasible.

(5) Providing family preservation services or family support services (both as defined in 42 U.S.C. 629a) for families and children who are not currently receiving individually designed services provided or funded by the department through an open juvenile court child in need of services or delinquency case.

(6) Providing child welfare substance abuse treatment services for families and children who have an open child welfare or delinquency case with the juvenile court.

SECTION 8. IC 31-26-3.5-2.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: **Sec. 2.5. Information and training concerning child welfare substance abuse treatment services must be provided as follows:**

(1) The Indiana judicial center shall provide the information and training to juvenile court, circuit court, and superior court judges.

(2) The department shall provide the information and training



to the employees of the department.

(3) The public defender council of Indiana shall provide the information and training to public defenders.

SECTION 9. IC 31-34-1-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 10. Except as provided in sections 12 and 13 of this chapter, a child is a child in need of services if:

- (1) the child is born with:
 - (A) fetal alcohol syndrome;
 - (B) neonatal abstinence syndrome; or**
 - ~~(B)~~ **(C) any amount, including a trace amount, of a controlled substance, or a legend drug, or a metabolite of a controlled substance or legend drug in the child's body, including the child's blood, urine, umbilical cord tissue, or meconium;**
 and
- (2) the child needs care, treatment, or rehabilitation that:
 - (A) the child is not receiving; or
 - (B) is unlikely to be provided or accepted without the coercive intervention of the court.

SECTION 10. IC 31-34-1-11, AS AMENDED BY P.L.2-2005, SECTION 81, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 11. Except as provided in sections 12 and 13 of this chapter, a child is a child in need of services if:

- (1) the child:
 - (A) has an injury;
 - (B) has abnormal physical or psychological development;
 - (C) has symptoms of neonatal intoxication or withdrawal;**
 or
- ~~(C)~~ **(D) is at a substantial risk of a life threatening condition; that arises or is substantially aggravated because the child's mother used alcohol, a controlled substance, or a legend drug during pregnancy; and**
- (2) the child needs care, treatment, or rehabilitation that:
 - (A) the child is not receiving; or
 - (B) is unlikely to be provided or accepted without the coercive intervention of the court.

SECTION 11. [EFFECTIVE JULY 1, 2017] **(a) As used in this SECTION, "committee" refers to the interim study committee on corrections and criminal code established by IC 2-5-1.3-4(3).**

(b) As used in this SECTION, "interim" has the meaning set forth in IC 2-5-1.3-1.

(c) As used in this SECTION, "legislative council" refers to the



legislative council created by IC 2-5-1.1-1.

(d) The legislative council is urged to assign to the committee for study during the 2017 interim the topic of extending support services provided under IC 12-23-19 to individuals in the criminal justice system:

(1) who:

(A) are charged with a misdemeanor offense; or

(B) have a prior misdemeanor conviction; and

(2) who have been placed in or are eligible for placement in a pretrial services program, a community corrections program, a prosecuting attorney's diversion program, or jail.

(e) If the topic set forth in subsection (d) is assigned to the committee, the committee shall issue a final report to the legislative council containing the committee's findings and recommendations in an electronic format under IC 5-14-6 not later than November 1, 2017.

(f) This SECTION expires December 31, 2017.



Speaker of the House of Representatives

President of the Senate

President Pro Tempore

Governor of the State of Indiana

Date: _____ Time: _____

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