



January 23, 2018

HOUSE BILL No. 1134

DIGEST OF HB 1134 (Updated January 23, 2018 12:52 pm - DI 113)

Citations Affected: IC 12-7; IC 12-23; IC 22-2; IC 34-30.

Synopsis: Drug addiction workforce recovery program. Requires the division of mental health and addiction (division) to establish a drug addiction workforce recovery program (program). Provides that the program is to assist employers who have recently hired or offered to hire individuals who are qualified for employment with the employer and have failed an initial drug screening, to employ the individual if the individual agrees to participate in a drug education and addiction treatment program as a condition of employment. Establishes requirements for the program. Provides that the division may allow an employer to deduct from the employee's wages to pay for a part of the employee's drug education and addiction treatment services if the employee has assigned the wages. Requires that the department of workforce development and the state department of health shall assist the division in administering the program. Provides that if an employer and employee comply with the program, the employer is not liable in a civil action alleging negligent hiring for negligence of the employee. Provides that in certain civil actions an employer's participation in the program is not admissible as evidence. Allows the department of workforce development to develop an incentive program for employers who participate in the program.

Effective: July 1, 2018.

**Davisson, Bartels, VanNatter,
Goodin**

January 4, 2018, read first time and referred to Committee on Employment, Labor and Pensions.

January 23, 2018, amended, reported — Do Pass. Referred to Committee on Ways and Means pursuant to Rule 127.

HB 1134—LS 6881/DI 77



January 23, 2018

Second Regular Session of the 120th General Assembly (2018)

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 2017 Regular Session of the General Assembly.

HOUSE BILL No. 1134

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 12-7-2-76.4 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2018]: **Sec. 76.4. "Employee", for purposes of IC 12-23-23, has**
4 **the meaning set forth in IC 12-23-23-1.**
- 5 SECTION 2. IC 12-7-2-146, AS AMENDED BY THE
6 TECHNICAL CORRECTIONS BILL OF THE 2018 GENERAL
7 ASSEMBLY, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
8 JULY 1, 2018]: Sec. 146. "Program" refers to the following:
- 9 (1) For purposes of IC 12-10-7, the adult guardianship services
10 program established by IC 12-10-7-5.
- 11 (2) For purposes of IC 12-10-10, the meaning set forth in
12 IC 12-10-10-5.
- 13 ~~(3) For purposes of IC 12-10-10.5, the meaning set forth in~~
14 ~~IC 12-10-10.5-4.~~
- 15 ~~(4) (3)~~ For purposes of IC 12-17.2-2-14.2, the meaning set forth
16 in IC 12-17.2-2-14.2(a).
- 17 ~~(5) (4)~~ For purposes of IC 12-17.2-3.8, the meaning set forth in

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1 IC 12-17.2-3.8-2.

2 ~~(6)~~ (5) For purposes of IC 12-17.6, the meaning set forth in
3 IC 12-17.6-1-5.

4 **(6) For purposes of IC 12-23-23, the meaning set forth in**
5 **IC 12-23-23-2.**

6 SECTION 3. IC 12-23-23 IS ADDED TO THE INDIANA CODE
7 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
8 JULY 1, 2018]:

9 **Chapter 23. Drug Addiction Workforce Recovery Program**

10 **Sec. 1. As used in this chapter, "employee" means an individual**
11 **who:**

12 **(1) has applied for employment or recently been hired by an**
13 **employer; and**

14 **(2) failed an initial drug screening with the employer.**

15 **Sec. 2. As used in this chapter, "program" refers to the program**
16 **established by the division under section 3 of this chapter.**

17 **Sec. 3. The division shall establish a voluntary program to assist**
18 **employers who have recently hired or offered to hire individuals**
19 **who:**

20 **(1) are qualified for employment with the employer; and**

21 **(2) have failed an initial drug screening;**

22 **to employ the individual if the individual agrees to participate in a**
23 **drug education and addiction treatment program as a condition of**
24 **employment.**

25 **Sec. 4. If an employee has a verified positive test for an illicit**
26 **drug and has been offered employment or recently hired by an**
27 **employer who participates in the program, the employee is eligible**
28 **to participate in the program.**

29 **Sec. 5. The program must include the following components:**

30 **(1) Require a face to face clinical assessment and evaluation**
31 **by an approved addiction treatment provider to determine**
32 **what assistance is needed by the employee to resolve problems**
33 **associated with drug use.**

34 **(2) Refer the employee to an appropriate drug education and**
35 **addiction treatment program where the employee's**
36 **attendance or participation can be verified.**

37 **(3) Conduct a face to face follow-up evaluation to determine**
38 **if the employee has:**

39 **(A) actively participated in the drug education and**
40 **addiction treatment program; and**

41 **(B) demonstrated successful compliance with the initial**
42 **assessment and evaluation recommendations.**



- 1 (4) Provides for a follow-up drug testing plan for the
 2 employee.
- 3 (5) Provides the employee and employer with written
 4 recommendations for continuing drug education and
 5 addiction treatment.
- 6 (6) If ongoing services, in addition to follow-up tests, are
 7 needed to assist an employee to maintain abstinence from
 8 illicit drug use after the employee resumes the performance of
 9 employment duties, the employer shall provide
 10 recommendations for these in the employer's follow-up
 11 evaluation report.
- 12 (7) An employer may require the employee to participate in
 13 the recommended drug education and addiction treatment
 14 services as a condition of employment. The employer may
 15 monitor and document the employee's participation in the
 16 recommended services.
- 17 (8) An employer may discipline or terminate the employment
 18 of an employee who does not comply with the
 19 recommendations for the employee's recommended drug
 20 education and addiction treatment services.
- 21 **Sec. 6. (a) The division shall do the following:**
- 22 (1) Establish criteria for employers to participate in the
 23 program.
- 24 (2) Assist employers and employees who participate in the
 25 program in:
- 26 (A) determining if the employee is eligible under the
 27 employer provided insurance, Medicaid, the healthy
 28 Indiana plan, or private, local, state, or federal programs
 29 to assist in paying for the employee's recommended drug
 30 education and addiction treatment services; and
- 31 (B) enrolling the employee in public or private health care
 32 services to provide drug education and addiction treatment
 33 services for the employee.
- 34 (3) Approve a list of addiction treatment providers that an
 35 employer may use under the program to provide onsite drug
 36 education and addiction treatment services for the employee.
- 37 (4) Establish policies and procedures for determining who is
 38 responsible for payment of:
- 39 (A) clinical assessment and evaluation; and
- 40 (B) drug education and addiction treatment services.
- 41 In determining the policies and procedures, the division shall
 42 take into account available insurance policies, labor



1 agreements, employee health care benefits, and government
2 programs.

3 (5) Identify grants that may be available to employers to
4 cover any additional drug education and addiction treatment
5 services cost to the employer that is not covered by insurance.

6 (b) The division may allow an employer to deduct from the
7 employee's wages to pay for a part of the employee's drug
8 education and addiction treatment services if the employee has
9 assigned the wages under IC 22-2-6-2(a).

10 (c) An employer may elect to pay for all or part of the
11 employee's drug education and addiction treatment services.

12 Sec. 7. If an employee who is in the program violates the
13 employer's drug policy, the employer is not required to provide
14 any subsequent recommended drug education and addiction
15 treatment. However, if an employer offers an employee an
16 opportunity to retain employment after a violation of the drug
17 policy, the employer shall ensure that the employee receives a drug
18 use evaluation from an approved addiction treatment provider and
19 that the employee successfully complies with the employee's
20 recommended drug education and addiction treatment.

21 Sec. 8. (a) The division shall annually collect the following
22 information:

23 (1) The number of employers participating in the program.

24 (2) For each employer participating in the program, the
25 following:

26 (A) The number of individuals who applied for
27 employment and failed a drug screening.

28 (B) The number of individuals in clause (A) who were
29 offered employment under the program.

30 (C) The number of individuals in clause (B) who accepted
31 the offer of employment under the program.

32 (D) The number of individuals in clause (B) who declined
33 the offer of employment under the program.

34 (E) The number of individuals in clause (C) who completed
35 the program.

36 (3) Any other relevant information determined by the
37 division.

38 (b) The division shall report the information collected under
39 subsection (a) to the department of workforce development and the
40 state department of health.

41 Sec. 9. The division shall assure that the criteria for appropriate
42 drug education and addiction treatment services meets federal



1 requirements under:

- 2 (1) Executive Order 12564; and
 3 (2) Public Law 100-71.

4 Sec. 10. The department of workforce development and the state
 5 department of health shall assist the division in administering this
 6 chapter.

7 Sec. 11. After consulting with the department of workforce
 8 development and the state department of health, the division may
 9 adopt rules under IC 4-22-2 to administer this chapter.

10 Sec. 12. (a) If an employer complies with the requirements
 11 under this chapter and the employee complies with the drug
 12 education and addiction treatment services required under this
 13 chapter, the employer is not liable for a civil action alleging
 14 negligent hiring for any negligent action by the employee as a
 15 result of the employee's drug addiction in the scope of employment.

16 (b) In a civil action that is:

- 17 (1) against an employer, an employer's agent, or an
 18 employer's employee; and
 19 (2) based on the conduct of an employee who is or former
 20 employee who was in the program under this chapter;

21 an employer's participation in the program is not admissible as
 22 evidence.

23 Sec. 13. (a) The department of workforce development may
 24 develop and administer an incentive program for employers who
 25 participate in the program.

26 (b) If the department of workforce development develops an
 27 incentive program under subsection (a), the department shall
 28 adopt eligibility requirements.

29 SECTION 4. IC 22-2-6-2, AS AMENDED BY P.L.193-2015,
 30 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 31 JULY 1, 2018]: Sec. 2. (a) Any assignment of the wages of an
 32 employee is valid only if all of the following conditions are satisfied:

33 (1) The assignment is:

- 34 (A) in writing;
 35 (B) signed by the employee personally;
 36 (C) by its terms revocable at any time by the employee upon
 37 written notice to the employer; and
 38 (D) agreed to in writing by the employer.

39 (2) An executed copy of the assignment is delivered to the
 40 employer within ten (10) days after its execution.

41 (3) The assignment is made for a purpose described in subsection
 42 (b).



1 (b) A wage assignment under this section may be made for the
2 purpose of paying any of the following:

3 (1) Premium on a policy of insurance obtained for the employee
4 by the employer.

5 (2) Pledge or contribution of the employee to a charitable or
6 nonprofit organization.

7 (3) Purchase price of bonds or securities, issued or guaranteed by
8 the United States.

9 (4) Purchase price of shares of stock, or fractional interests
10 therein, of the employing company, or of a company owning the
11 majority of the issued and outstanding stock of the employing
12 company, whether purchased from such company, in the open
13 market or otherwise. However, if such shares are to be purchased
14 on installments pursuant to a written purchase agreement, the
15 employee has the right under the purchase agreement at any time
16 before completing purchase of such shares to cancel said
17 agreement and to have repaid promptly the amount of all
18 installment payments which theretofore have been made.

19 (5) Dues to become owing by the employee to a labor
20 organization of which the employee is a member.

21 (6) Purchase price of merchandise, goods, or food offered by the
22 employer and sold to the employee, for the employee's benefit,
23 use, or consumption, at the written request of the employee.

24 (7) Amount of a loan made to the employee by the employer and
25 evidenced by a written instrument executed by the employee
26 subject to the amount limits set forth in section 4(c) of this
27 chapter.

28 (8) Contributions, assessments, or dues of the employee to a
29 hospital service or a surgical or medical expense plan or to an
30 employees' association, trust, or plan existing for the purpose of
31 paying pensions or other benefits to said employee or to others
32 designated by the employee.

33 (9) Payment to any credit union, nonprofit organizations, or
34 associations of employees of such employer organized under any
35 law of this state or of the United States.

36 (10) Payment to any person or organization regulated under the
37 Uniform Consumer Credit Code (IC 24-4.5) for deposit or credit
38 to the employee's account by electronic transfer or as otherwise
39 designated by the employee.

40 (11) Premiums on policies of insurance and annuities purchased
41 by the employee on the employee's life.

42 (12) The purchase price of shares or fractional interest in shares



- 1 in one (1) or more mutual funds.
- 2 (13) A judgment owed by the employee if the payment:
- 3 (A) is made in accordance with an agreement between the
- 4 employee and the creditor; and
- 5 (B) is not a garnishment under IC 34-25-3.
- 6 (14) The purchase of uniforms and equipment necessary to fulfill
- 7 the duties of employment. The total amount of wages assigned
- 8 may not exceed the lesser of:
- 9 (A) two thousand five hundred dollars (\$2,500) per year; or
- 10 (B) five percent (5%) of the employee's weekly disposable
- 11 earnings (as defined in IC 24-4.5-5-105(1)(a)).
- 12 (15) Reimbursement for education or employee skills training.
- 13 However, a wage assignment may not be made if the education or
- 14 employee skills training benefits were provided, in whole or in
- 15 part, through an economic development incentive from any
- 16 federal, state, or local program.
- 17 (16) An advance for:
- 18 (A) payroll; or
- 19 (B) vacation;
- 20 pay.
- 21 **(17) The employee's drug education and addiction treatment**
- 22 **services under IC 12-23-23.**
- 23 (c) The interest rate charged on amounts loaned or advanced to an
- 24 employee and repaid under subsection (b) may not exceed the bank
- 25 prime loan interest rate as reported by the Board of Governors of the
- 26 Federal Reserve System or any successor rate, plus four percent (4%).
- 27 SECTION 5. IC 34-30-2-47.6 IS ADDED TO THE INDIANA
- 28 CODE AS A NEW SECTION TO READ AS FOLLOWS
- 29 [EFFECTIVE JULY 1, 2018]: **Sec. 47.6. IC 12-23-23-12 (Concerning**
- 30 **negligent hiring actions against employers who hire employees in**
- 31 **a drug education and addiction treatment program).**



COMMITTEE REPORT

Mr. Speaker: Your Committee on Employment, Labor and Pensions, to which was referred House Bill 1134, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 5, line 10, after "12." insert "(a)".

Page 5, between lines 15 and 16, begin a new paragraph and insert:

"(b) In a civil action that is:

(1) against an employer, an employer's agent, or an employer's employee; and

(2) based on the conduct of an employee who is or former employee who was in the program under this chapter;

an employer's participation in the program is not admissible as evidence."

and when so amended that said bill do pass.

(Reference is to HB 1134 as introduced.)

VANNATTER

Committee Vote: yeas 11, nays 1.

