



March 24, 2023

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# ENGROSSED HOUSE BILL No. 1213

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DIGEST OF HB 1213 (Updated March 22, 2023 1:17 pm - DI 104)

**Citations Affected:** IC 12-9; IC 12-15; IC 34-30.

**Synopsis:** Community integration and habilitation waiver. Establishes the special service review team to review denied applications and applications for which a determination has not been made for the community integration and habilitation waiver. Limits the geographical area of review. Establishes reporting requirements. Requires the division of disability and rehabilitative services to obtain consent from a waiver applicant in order to share the application data with the review team. Provides immunity for an employee who obtains consent and provides the information in good faith. Provides that the review team expires December 31, 2024. Makes changes to the situations in which an emergency placement priority may be provided for individuals under a Medicaid waiver.

**Effective:** Upon passage.

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## Olthoff, Engleman, Cash, Summers

(SENATE SPONSORS — BROWN L, CHARBONNEAU)

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January 10, 2023, read first time and referred to Committee on Public Health.  
February 20, 2023, amended, reported — Do Pass.  
February 22, 2023, read second time, ordered engrossed. Engrossed.  
February 23, 2023, read third time, passed. Yeas 93, nays 0.

SENATE ACTION

March 6, 2023, read first time and referred to Committee on Health and Provider Services.  
March 23, 2023, amended, reported favorably — Do Pass; reassigned to Committee on Appropriations.

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March 24, 2023

First Regular Session of the 123rd General Assembly (2023)

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 2022 Regular Session of the General Assembly.

## ENGROSSED HOUSE BILL No. 1213

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 12-9-4-8 IS ADDED TO THE INDIANA CODE  
2 AS A **NEW SECTION TO READ AS FOLLOWS [EFFECTIVE**  
3 **UPON PASSAGE]: Sec. 8. (a) As used in this section, "review team"**  
4 **refers to the special service review team established by subsection**  
5 **(c).**  
6 **(b) As used in this section, "waiver" refers to the community**  
7 **integration and habilitation waiver.**  
8 **(c) The special service review team is established.**  
9 **(d) The review team shall do the following:**  
10 **(1) Subject to subsection (k)(2), review denied applications**  
11 **from the director for the waiver that were received between**  
12 **July 1, 2023, through December 31, 2024, from Districts 1, 4,**  
13 **and 8 of the bureau of disabilities services districts, including**  
14 **a review of the applicant's data, and collect any additional**  
15 **information concerning an applicant that is needed.**  
16 **(2) Subject to subsection (k)(2), review, at the director's**  
17 **discretion, waiver applications received July 1, 2023, through**

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1           December 31, 2024, for which a determination has not been  
 2           made by the director. The review team shall review the  
 3           applicant's data and collect any additional information  
 4           necessary concerning the applicant.

5           **(3) Provide the following to the director:**

6                **(A) Concerning the review team's review of applications**  
 7                **under subdivision (1), an evaluation of information that**  
 8                **can be applied to the waiver at the systems level, including**  
 9                **the criteria that can be used to approve and deny waiver**  
 10               **applications.**

11               **(B) Concerning the review team's review of applications**  
 12               **under subdivision (2) and not later than thirty (30) days**  
 13               **from the review team's receipt of the application from the**  
 14               **director, additional information concerning an application**  
 15               **identified during the review team's review of the**  
 16               **application.**

17           **(4) Issue a quarterly report to the council.**

18           **(e) The director shall appoint the members of the review team**  
 19           **and fill any vacancies on the review team. The review team must**  
 20           **consist of the following five (5) members who are knowledgeable**  
 21           **in the waiver requirements:**

22                **(1) A representative from The Arc of Indiana.**

23                **(2) A representative from a case management company.**

24                **(3) An individual who works as a behavior consultant.**

25                **(4) Two (2) individuals appointed by the director.**

26           **However, not more than one (1) member may be a state employee.**

27           **(f) The director shall appoint a member of the review team to**  
 28           **serve as the chairperson.**

29           **(g) The director shall:**

30                **(1) notify the chairperson; and**

31                **(2) provide the information that the review team needs to**  
 32                **begin to review the application;**

33           **within five (5) business days of a waiver application that has been**  
 34           **denied. The director shall also notify the chairperson if the director**  
 35           **would like additional consultation on an application described in**  
 36           **subsection (d)(2).**

37           **(h) As used in this subsection, a "conflict of interest" may**  
 38           **include a direct or indirect financial interest with the applicant or**  
 39           **a prior or current relationship with the applicant. If a member**  
 40           **appointed to the review team under subsection (e)(1) through (e)(3)**  
 41           **has a conflict of interest (as defined in 460 IAC 6-3-15.2) with the**  
 42           **applicant of a waiver application under review by the review team,**



- 1 the member shall:
- 2 (1) inform the director of the conflict of interest; and
- 3 (2) recuse themselves from review of the application.
- 4 The director shall appoint a member to the review team to fill the
- 5 vacancy of the recused member during the review of the
- 6 application for which the member has been recused.
- 7 (i) Each member of the review team who is not a state employee
- 8 is entitled to the following:
- 9 (1) The minimum salary per diem provided by
- 10 IC 4-10-11-2.1(b).
- 11 (2) Reimbursement for traveling expenses and other expenses
- 12 actually incurred in connection with the member's duties as
- 13 provided under IC 4-13-1-4 and in the state travel policies and
- 14 procedures established by the Indiana department of
- 15 administration and approved by the budget agency.
- 16 (j) A member of the review team who is a state employee is not
- 17 entitled to any of the following:
- 18 (1) The minimum salary per diem provided by
- 19 IC 4-10-11-2.1(b).
- 20 (2) Reimbursement for traveling expenses as provided under
- 21 IC 4-13-1-4.
- 22 (3) Other expenses actually incurred in connection with the
- 23 member's duties.
- 24 (k) The division shall do the following:
- 25 (1) Obtain consent from a waiver applicant or the applicant's
- 26 legal guardian to share the application data with the review
- 27 team. An applicant must voluntarily consent to sharing the
- 28 application with the review team, and an applicant's denial to
- 29 consent to share the application data may not affect a
- 30 determination on the applicant's waiver application.
- 31 (2) Provide members of the review team with the data
- 32 required under subsection (d)(1) and (d)(2) for the
- 33 applications where consent has been obtained under
- 34 subdivision (1).
- 35 (3) Provide administrative support for the review team.
- 36 (4) Pay the expenses of the review team. The division may use
- 37 funds received from the federal American Rescue Plan Act of
- 38 2021 that are allowed to be spent for expenses of the review
- 39 team.
- 40 (l) An employee of the division who provides records in
- 41 accordance with subsection (k) in good faith is not subject to
- 42 liability in:



- 1           **(1) a civil;**  
 2           **(2) an administrative;**  
 3           **(3) a disciplinary; or**  
 4           **(4) a criminal;**

5 **action that might otherwise be imposed as a result of the disclosure**  
 6 **of the records.**

7 **(m) This section expires December 31, 2024.**

8 SECTION 2. IC 12-15-1.3-15, AS AMENDED BY P.L.156-2020,  
 9 SECTION 54, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 10 UPON PASSAGE]: Sec. 15. (a) As used in this section, "division"  
 11 refers to the division of disability and rehabilitative services established  
 12 by IC 12-9-1-1.

13 (b) As used in this section, "waiver" refers to any waiver  
 14 administered by the office and the division under section 1915(c) of the  
 15 federal Social Security Act.

16 (c) The office shall apply to the United States Department of Health  
 17 and Human Services for approval to amend a waiver to set an  
 18 emergency placement priority for individuals in the following  
 19 situations:

20 (1) Death of a primary caregiver. ~~where alternative placement in~~  
 21 ~~a supervised group living setting:~~

22 ~~(A) is not available; or~~

23 ~~(B) is determined by the division to be an inappropriate option.~~

24 (2) ~~A situation in which:~~

25 ~~(A) The primary caregiver is at least ~~eighty (80)~~ **seventy (70)**~~  
 26 ~~years of age. and~~

27 ~~(B) alternate placement in a supervised group living setting is~~  
 28 ~~not available or is determined by the division to be an~~  
 29 ~~inappropriate option.~~

30 (3) There is evidence of abuse or neglect in the current  
 31 institutional or home placement. ~~and alternate placement in a~~  
 32 ~~supervised group living setting is not available or is determined~~  
 33 ~~by the division to be an inappropriate option.~~

34 (4) ~~There are Other available services through:~~

35 ~~(A) the Medicaid program and other federal, state, and~~  
 36 ~~local public programs; and~~

37 ~~(B) supports that families and communities provide;~~

38 ~~are insufficient to address other health and safety risks, as~~  
 39 ~~determined by the division director. and alternate placement in a~~  
 40 ~~supervised group living setting is not available or is determined~~  
 41 ~~by the division to be an inappropriate option.~~

42 (d) The division shall report on a quarterly basis the following



1 information to the division of disability and rehabilitative services  
 2 advisory council established by IC 12-9-4-2 concerning each Medicaid  
 3 waiver for which the office has been approved under this section to  
 4 administer an emergency placement priority for individuals described  
 5 in this section:

6 (1) The number of applications for emergency placement priority  
 7 waivers.

8 (2) The number of individuals served on the waiver.

9 (3) The number of individuals on a wait list for the waiver.

10 (e) Before July 1, 2021, the division, in coordination with the task  
 11 force established by IC 12-11-15.5-2, shall establish new priority  
 12 categories for individuals served by a waiver.

13 (f) The office may adopt rules under IC 4-22-2 necessary to  
 14 implement this section.

15 SECTION 3. IC 34-30-2.1-129.5 IS ADDED TO THE INDIANA  
 16 CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
 17 [EFFECTIVE UPON PASSAGE]: **Sec. 129.5. IC 12-9-4-8**  
 18 **(Concerning providing information to the special service review**  
 19 **team).**

20 SECTION 4. **An emergency is declared for this act.**



## COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Health, to which was referred House Bill 1213, 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 1, line 10, delete "denied applications for the waiver," and insert **"applications from the director for the waiver that were received between July 1, 2023, through December 31, 2024, from the First, Fourth, and Eighth Congressional Districts,"**.

Page 2, delete lines 11 through 14, begin a new paragraph and insert:

**"(g) The director shall:**

**(1) notify the chairperson; and**

**(2) provide the information that the review team needs to begin to review the application;**

**within three (3) business days of a waiver application that has been denied. The director shall also notify the chairperson if the director would like additional consultation on a given application."**

Page 3, line 17, reset in roman "eighty (80)".

Page 3, line 17, delete "seventy (70)".

and when so amended that said bill do pass.

(Reference is to HB 1213 as introduced.)

BARRETT

Committee Vote: yeas 8, nays 0.

## COMMITTEE REPORT

Madam President: The Senate Committee on Health and Provider Services, to which was referred House Bill No. 1213, 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, line 10, delete "Review" and insert **"Subject to subsection (k)(2), review denied"**.

Page 1, line 12, delete "the First, Fourth, and Eighth Congressional" and insert **"Districts 1, 4, and 8 of the bureau of disabilities services"**.

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Page 1, line 13, delete "Districts," and insert "**districts**,".

Page 1, delete lines 16 through 17, begin a new line block indented and insert:

**"(2) Subject to subsection (k)(2), review, at the director's discretion, waiver applications received July 1, 2023, through December 31, 2024, for which a determination has not been made by the director. The review team shall review the applicant's data and collect any additional information necessary concerning the applicant.**

**(3) Provide the following to the director:**

**(A) Concerning the review team's review of applications under subdivision (1), an evaluation of information that can be applied to the waiver at the systems level, including the criteria that can be used to approve and deny waiver applications.**

**(B) Concerning the review team's review of applications under subdivision (2) and not later than thirty (30) days from the review team's receipt of the application from the director, additional information concerning an application identified during the review team's review of the application."**

Page 2, delete line 1.

Page 2, line 18, delete "three (3)" and insert "**five (5)**".

Page 2, line 20, delete "a given application." and insert "**an application described in subsection (d)(2).**".

Page 2, line 21, after "(h)" insert "**As used in this subsection, a "conflict of interest" may include a direct or indirect financial interest with the applicant or a prior or current relationship with the applicant. If a member appointed to the review team under subsection (e)(1) through (e)(3) has a conflict of interest (as defined in 460 IAC 6-3-15.2) with the applicant of a waiver application under review by the review team, the member shall:**

**(1) inform the director of the conflict of interest; and**

**(2) recuse themselves from review of the application.**

**The director shall appoint a member to the review team to fill the vacancy of the recused member during the review of the application for which the member has been recused.**

**(i)".**

Page 2, line 30, delete "(i)" and insert "**(j)**".

Page 2, line 38, delete "(j)" and insert "**(k)**".

Page 2, delete lines 39 through 42, begin a new line block indented and insert:



**"(1) Obtain consent from a waiver applicant or the applicant's legal guardian to share the application data with the review team. An applicant must voluntarily consent to sharing the application with the review team, and an applicant's denial to consent to share the application data may not affect a determination on the applicant's waiver application.**

**(2) Provide members of the review team with the data required under subsection (d)(1) and (d)(2) for the applications where consent has been obtained under subdivision (1).**

**(3) Provide administrative support for the review team."**

Page 3, line 1, delete "(3)" and insert "(4)".

Page 3, line 5, delete "(k)" and insert "**(l) An employee of the division who provides records in accordance with subsection (k) in good faith is not subject to liability in:**

- (1) a civil;**
- (2) an administrative;**
- (3) a disciplinary; or**
- (4) a criminal;**

**action that might otherwise be imposed as a result of the disclosure of the records.**

**(m)".**

Page 3, delete lines 6 through 42, begin a new paragraph and insert:

"SECTION 2. IC 12-15-1.3-15, AS AMENDED BY P.L.156-2020, SECTION 54, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 15. (a) As used in this section, "division" refers to the division of disability and rehabilitative services established by IC 12-9-1-1.

(b) As used in this section, "waiver" refers to any waiver administered by the office and the division under section 1915(c) of the federal Social Security Act.

(c) The office shall apply to the United States Department of Health and Human Services for approval to amend a waiver to set an emergency placement priority for individuals in the following situations:

- (1) Death of a primary caregiver. ~~where alternative placement in a supervised group living setting:~~
  - ~~(A) is not available; or~~
  - ~~(B) is determined by the division to be an inappropriate option:~~
- (2) ~~A situation in which:~~
  - ~~(A) The primary caregiver is at least ~~eighty (80)~~ **seventy (70)** years of age. ~~and~~~~



(B) alternate placement in a supervised group living setting is not available or is determined by the division to be an inappropriate option.

(3) There is evidence of abuse or neglect in the current institutional or home placement. ~~and alternate placement in a supervised group living setting is not available or is determined by the division to be an inappropriate option.~~

(4) **There are Other available services through:**

**(A) the Medicaid program and other federal, state, and local public programs; and**

**(B) supports that families and communities provide; are insufficient to address other health and safety risks, as determined by the division director. ~~and alternate placement in a supervised group living setting is not available or is determined by the division to be an inappropriate option.~~**

(d) The division shall report on a quarterly basis the following information to the division of disability and rehabilitative services advisory council established by IC 12-9-4-2 concerning each Medicaid waiver for which the office has been approved under this section to administer an emergency placement priority for individuals described in this section:

(1) The number of applications for emergency placement priority waivers.

(2) The number of individuals served on the waiver.

(3) The number of individuals on a wait list for the waiver.

(e) Before July 1, 2021, the division, in coordination with the task force established by IC 12-11-15.5-2, shall establish new priority categories for individuals served by a waiver.

(f) The office may adopt rules under IC 4-22-2 necessary to implement this section.

SECTION 3. IC 34-30-2.1-129.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 129.5. IC 12-9-4-8 (Concerning providing information to the special service review team).**".

Page 4, delete lines 1 through 11.

Re-number all SECTIONS consecutively.

and when so amended that said bill do pass and be reassigned to the Senate Committee on Appropriations.

(Reference is to HB 1213 as printed February 20, 2023.)

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CHARBONNEAU, Chairperson

Committee Vote: Yeas 8, Nays 0.

