

HOUSE BILL No. 1440

DIGEST OF INTRODUCED BILL

Citations Affected: IC 12-7-2; IC 12-23-11.1-1; IC 12-26-6.5.

Synopsis: Involuntary commitment for addiction treatment. Establishes a proceeding for the commitment of an individual who suffers from substance abuse. Provides that the petitioner must agree to pay the cost of the respondent's commitment. Establishes requirements before the court may issue an order for commitment. Allows the court to order the respondent to receive treatment and to appear at an evaluation.

Effective: July 1, 2023.

Ledbetter, Steuerwald

January 17, 2023, read first time and referred to Committee on Public Health.



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.

HOUSE BILL No. 1440



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 12-7-2-82, AS AMENDED BY P.L.194-2007,
2 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2023]: Sec. 82. "Facility" means the following:
4 (1) For purposes of IC 12-17-12, the meaning set forth in
5 IC 12-17-12-3.
6 (2) For purposes of IC 12-17-13, the meaning set forth in
7 IC 12-17-13-2.
8 (3) For purposes of IC 12-26, a hospital, a health and hospital
9 corporation established under IC 16-22-8, a psychiatric hospital,
10 a community mental health center, another institution, a program,
11 a managed care provider, or a child caring institution:
12 (A) where an individual with a mental illness **or who is a**
13 **substance abuser** can receive rehabilitative treatment, or
14 habilitation and care, in the least restrictive environment
15 suitable for the necessary care, treatment, and protection of the
16 individual and others; and
17 (B) that has adequate space and treatment staff appropriate to



1 the needs of the individual as determined by the
2 superintendent of the facility.

3 The term includes all services, programs, and centers of the
4 facility, wherever located.

5 (4) For purposes of IC 12-15-32, the meaning set forth in
6 IC 12-15-32-1.

7 SECTION 2. IC 12-7-2-154.9 IS ADDED TO THE INDIANA
8 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
9 [EFFECTIVE JULY 1, 2023]: **Sec. 154.9. "Qualified health
10 professional", for purposes of IC 12-26-6.5, has the meaning set
11 forth in IC 12-26-6.5-1.**

12 SECTION 3. IC 12-7-2-187.5 IS ADDED TO THE INDIANA
13 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
14 [EFFECTIVE JULY 1, 2023]: **Sec. 187.5. "Substance abuser", for
15 purposes of IC 12-26, has the meaning set forth in IC 12-26-6.5-2.**

16 SECTION 4. IC 12-23-11.1-1, AS ADDED BY P.L.187-2015,
17 SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
18 JULY 1, 2023]: Sec. 1. (a) Except as provided in subsection (b), an
19 individual who is:

- 20 (1) an alcoholic;
21 (2) incapacitated by alcohol; **or**
22 (3) a drug abuser; **or**
23 (4) **diagnosed with a substance use disorder as published in
24 the most current version of the American Psychiatric
25 Association's Diagnostic and Statistical Manual of Mental
26 Disorders;**

27 may be involuntarily committed to the care of the division under
28 IC 12-26.

29 (b) A drug abuser who is charged with or convicted of an offense
30 that makes the individual ineligible to make an election for treatment
31 under IC 12-23-6.1 may not be involuntarily committed under
32 subsection (a).

33 SECTION 5. IC 12-26-6.5 IS ADDED TO THE INDIANA CODE
34 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE
35 JULY 1, 2023]:

36 **Chapter 6.5. Commitment for Alcohol and Drug Abuse**
37 **Sec. 1. As used in this chapter, "qualified health professional"**
38 **means:**

- 39 (1) **a physician licensed under IC 25-22.5;**
40 (2) **an addiction counselor or clinical addiction counselor
41 licensed under IC 25-23.6; and**
42 (3) **a licensed health care professional licensed under IC 25**



- 1 acting within the scope of the individual's license and who has
 2 training and experience in addiction counseling.
- 3 **Sec. 2. As used in this chapter, "substance abuser" means an**
 4 **individual who is:**
- 5 (1) an alcoholic;
 - 6 (2) an alcohol abuser;
 - 7 (3) a drug abuser; or
 - 8 (4) diagnosed with a substance use disorder as published in
 9 the most current version of the American Psychiatric
 10 Association's Diagnostic and Statistical Manual of Mental
 11 Disorders.
- 12 **Sec. 3. This chapter applies to a proceeding for commitment of**
 13 **an individual:**
- 14 (1) alleged to be a substance abuser;
 - 15 (2) who presents an imminent threat of danger to self, family,
 16 or others as a result of a substance use disorder, or who has
 17 a substantial likelihood of such a threat in the near future;
 - 18 (3) whose commitment is reasonably expected to require
 19 custody, care, and treatment that is expected to require sixty
 20 (60) to three hundred sixty (360) days of treatment; and
 - 21 (4) whose treatment will be paid for by the petitioner.
- 22 **Sec. 4. An individual suffering from substance abuse may be**
 23 **ordered to undergo treatment if the individual:**
- 24 (1) is:
 - 25 (A) an alcoholic, alcohol abuser, drug abuser; or
 - 26 (B) diagnosed with a substance abuse disorder as published
 27 in the most current version of the American Psychiatric
 28 Association's Diagnostic and Statistical Manual of Mental
 29 Disorders;
 - 30 (2) presents an imminent threat of danger to self, family, or
 31 others as a result of a substance abuse, or there exists a
 32 substantial likelihood of such a threat in the near future; and
 - 33 (3) can reasonably benefit from treatment.
- 34 **Sec. 5. (a) A proceeding for the commitment of an individual**
 35 **who appears to be suffering from substance abuse may be begun**
 36 **by filing with a court having jurisdiction a verified written petition**
 37 **by a:**
- 38 (1) spouse;
 - 39 (2) relative;
 - 40 (3) friend; or
 - 41 (4) guardian;
- 42 **of the individual.**



1 (b) The petition must include the following information:

2 (1) The petitioner's relationship to the respondent.

3 (2) The respondent's name, residence, and current location, if
4 known.

5 (3) If known, the name and residence of the respondent's:

6 (A) parents, if living; or

7 (B) legal guardian, if any.

8 (4) The name and residence of the respondent's spouse, if any
9 and if known.

10 (5) If known, the name and address of:

11 (A) the person having custody of the respondent, if any; or

12 (B) the name and address of a close relative.

13 (6) The petitioner's belief, including the factual basis, that the
14 respondent is suffering from substance abuse and presents a
15 danger or threat of danger to self, family, or others if not
16 treated for substance abuse.

17 (c) A petition filed under this section must be accompanied by
18 a guarantee, signed by the petitioner or other person authorized
19 under subsection (a), obligating that person to pay all costs for
20 treatment of the respondent for substance abuse that is ordered by
21 the court.

22 Sec. 6. (a) Upon receipt of the petition, the court shall examine
23 the petitioner under oath as to the contents of the petition.

24 (b) If, after reviewing the allegations contained in the petition
25 and examining the petitioner under oath, it appears to the court
26 that there is probable cause to believe the respondent should be
27 ordered to undergo treatment, then the court shall:

28 (1) set a date for a hearing within fourteen (14) days to
29 determine if the respondent should be ordered to undergo
30 treatment for substance abuse;

31 (2) notify:

32 (A) the respondent;

33 (B) if known, the respondent's legal guardian; and

34 (C) the spouse, parents, or closest relative or friend of the
35 respondent;

36 concerning the allegations and contents of the petition and the
37 date and purpose of the hearing, and the name, address, and
38 telephone number of the attorney appointed to represent the
39 respondent; and

40 (3) cause the respondent to be examined not later than
41 twenty-four (24) hours before the hearing date by two (2)
42 qualified health professionals, at least one (1) of whom is a



1 physician. The qualified health professionals:

2 (A) shall certify their findings to the court within
3 twenty-four (24) hours of the examinations; and

4 (B) may be subject to subpoena for cross-examination at
5 the hearing, either in person, by telephone, or by
6 videoconference.

7 (c) If, upon completion of the hearing, the court finds by proof
8 beyond a reasonable doubt that the respondent should be ordered
9 to undergo treatment, the court shall order the treatment for a
10 period from sixty (60) consecutive days from the date of the court
11 order to a period of not more than three hundred sixty (360)
12 consecutive days from the date of the court order, whatever was
13 the period of time that was requested in the petition or otherwise
14 agreed to at the hearing. Failure of a respondent to undergo
15 treatment ordered under this subsection may place the respondent
16 in contempt of court.

17 (d) If, at any time after the petition is filed, the court finds that
18 there is not probable cause to continue treatment or if the
19 petitioner withdraws the petition, then the proceedings against the
20 respondent must be dismissed.

21 Sec. 7. (a) Following an examination by a qualified health
22 professional and a certification by that professional that the
23 respondent meets the criteria specified in section 3 of this chapter,
24 the court may order the individual hospitalized for a period not to
25 exceed seventy-two (72) hours if the court finds, by clear and
26 convincing evidence, that the respondent presents an imminent
27 threat of danger to self, family, or others as a result of a substance
28 abuse.

29 (b) An individual who has been admitted to a hospital under
30 subsection (a) must be released from the hospital within
31 seventy-two (72) hours of admittance.

32 (c) A respondent ordered hospitalized under this section may
33 not be held in jail pending transportation to the hospital or
34 evaluation unless the court has previously found the respondent to
35 be in contempt of court for either failure to undergo treatment or
36 failure to appear at the examination ordered under section 6 of this
37 chapter.

38 Sec. 8. When the court is authorized to issue an order that the
39 respondent be transported to a facility, the court:

40 (1) may; or

41 (2) if the respondent fails to attend an examination scheduled
42 before the hearing provided for under section 6 of this



1 **chapter, then the court shall;**
2 **issue a summons. A summons issued must be directed to the**
3 **respondent and command the respondent to appear at a specified**
4 **time and place. If a respondent who has been issued a summons**
5 **fails to appear at the facility or for the examination, then the court**
6 **may order a law enforcement officer to transport the respondent**
7 **to a facility designated by the division. The law enforcement officer**
8 **may, upon agreement of a person authorized by the law**
9 **enforcement officer, authorize the division, a private agency on**
10 **contract with the division, or an ambulance service designated by**
11 **the division to transport the respondent to the facility. The**
12 **transportation costs of the law enforcement officer, ambulance**
13 **service, or other private agency on contract with the division are**
14 **considered to be a part of the costs of treatment for substance**
15 **abuse to be paid by the petitioner.**

