



February 1, 2019

HOUSE BILL No. 1488

DIGEST OF HB 1488 (Updated January 30, 2019 7:04 pm - DI 77)

Citations Affected: IC 12-11; IC 12-12; IC 12-15.

Synopsis: Rehabilitation and community based services. Requires the division of disability and rehabilitative services (division) to establish a statewide crisis assistance system program for individuals with developmental disabilities and sets forth requirements of the program. Adds four legislative members to the task force for assessment of services and supports for people with intellectual and other developmental disabilities (task force). Provides that the task force shall meet twice a year to receive a report from the office of the secretary of family and social services (office) on the implementation of the comprehensive plan of implementation of community based services provided to people with intellectual and other developmental disabilities (implementation plan). Provides that: (1) at the first annual meeting, the office shall report on the progress made in implementing each recommendation of the implementation plan; and (2) at the second annual meeting, the office shall report any legislative changes needed to implement any recommendation of the implementation plan. Changes the expiration date of the task force from December 31, 2018, to December 31, 2025, and makes all changes to the task force retroactive to December 30, 2018. Requires the rehabilitation services bureau to develop a plan to serve all service priority categories under order of selection not later than December 31, 2021. Requires the division of disability and rehabilitative services, in coordination with the task force, to establish new priority categories for individuals served by a waiver. Requires the office to increase Medicaid waiver reimbursement rates for specified services by 15% and specifies requirements for use of the increased dollars.

Effective: December 30, 2018 (retroactive); July 1, 2019.

Clere, Karickhoff, Porter, Mayfield

January 16, 2019, read first time and referred to Committee on Public Health.
January 31, 2019, amended, reported — Do Pass. Referred to Committee on Ways and Means pursuant to Rule 127.

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First Regular Session of the 121st General Assembly (2019)

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 2018 Regular and Special Session of the General Assembly.

HOUSE BILL No. 1488

A BILL FOR AN ACT to amend the Indiana Code concerning family law and juvenile law.

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

1 SECTION 1. IC 12-11-6-1, AS AMENDED BY P.L.99-2007,
2 SECTION 84, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2019]: Sec. 1. The division is responsible for the following:
4 (1) Planning, research, and the development of developmental
5 services directed toward the prevention and alleviation of
6 developmental disabilities or toward the social, personal,
7 physical, or economic habilitation or rehabilitation of an
8 individual with such a disability.
9 (2) The coordination of the various governmental services,
10 activities, and programs in Indiana relating to individuals with a
11 developmental disability.
12 (3) Administering the state aided services for individuals with a
13 developmental disability.
14 **(4) The establishment of a statewide crisis assistance system**
15 **program for individuals with developmental disabilities. The**
16 **program must include the following best practice crisis**
17 **components:**

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- 1 (A) A twenty-four (24) hour staffed telephone system.
 2 (B) Access to in-home crisis services.
 3 (C) Temporary out-of-home crisis placement resources for
 4 stabilization.
 5 (D) Telemedicine access and coverage.
 6 (E) Stabilization and risk reduction services.
 7 (F) Strategies concerning prevention and elimination of
 8 reoccurrence.
- 9 SECTION 2. IC 12-11-15-2, AS ADDED BY P.L.81-2017,
 10 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 11 DECEMBER 30, 2018 (RETROACTIVE)]: Sec. 2. (a) The task force
 12 for assessment of services and supports for people with intellectual and
 13 other developmental disabilities is established.
- 14 (b) The task force consists of ~~seventeen (17)~~ **twenty-one (21)** voting
 15 members, **appointed by the governor**; including:
- 16 (1) one (1) member representing the division of disability and
 17 rehabilitative services, **appointed by the governor**;
 18 (2) one (1) member representing the office of Medicaid policy
 19 and planning, **appointed by the governor**;
 20 (3) one (1) member representing the division of mental health and
 21 addiction, **appointed by the governor**;
 22 (4) one (1) member representing the governor's council for people
 23 with disabilities, **appointed by the governor**;
 24 (5) one (1) member representing the department of education,
 25 **appointed by the governor**;
 26 (6) one (1) member representing the state department of health,
 27 **appointed by the governor**;
 28 (7) one (1) member representing the division of aging, **appointed**
 29 **by the governor**;
 30 (8) one (1) member representing the department of child services,
 31 **appointed by the governor**;
 32 (9) one (1) member representing a statewide, nonprofit
 33 organization that advocates for people with intellectual and other
 34 developmental disabilities, **appointed by the governor**;
 35 (10) one (1) member representing a trade association of providers
 36 that deliver services to people with intellectual and other
 37 developmental disabilities, **appointed by the governor**;
 38 (11) two (2) members who are family members of people with
 39 intellectual or other developmental disabilities, **appointed by the**
 40 **governor**;
 41 (12) two (2) members who are consumers of services for people
 42 with intellectual and other developmental disabilities, **appointed**



- 1 **by the governor;**
 2 (13) two (2) members who are employees of organizations that
 3 provide services to people with intellectual and other
 4 developmental disabilities, **and appointed by the governor;**
 5 (14) one (1) member who is the secretary or the secretary's
 6 designee;
 7 **(15) one (1) member who:**
 8 **(A) represents the house of representatives;**
 9 **(B) is appointed by the speaker of the house of**
 10 **representatives; and**
 11 **(C) is not a member of the same political party as the**
 12 **member appointed under subdivision (16);**
 13 **(16) one (1) member who:**
 14 **(A) represents the house of representatives;**
 15 **(B) is appointed by the minority leader of the house of**
 16 **representatives; and**
 17 **(C) is not a member of the same political party as the**
 18 **member appointed under subdivision (15);**
 19 **(17) one (1) member who:**
 20 **(A) represents the senate;**
 21 **(B) is appointed by the president pro tempore of the**
 22 **senate; and**
 23 **(C) is not a member of the same political party as the**
 24 **member appointed under subdivision (18); and**
 25 **(18) one (1) member who:**
 26 **(A) represents the senate;**
 27 **(B) is appointed by the minority leader of the senate; and**
 28 **(C) is not a member of the same political party as the**
 29 **member appointed under subdivision (17).**
 30 (c) The governor or the governor's designee:
 31 (1) is a nonvoting member of the task force; and
 32 (2) shall serve as the chairperson.
 33 (d) The expenses of the task force shall be paid by the office of the
 34 secretary of family and social services.
 35 (e) A quorum consists of the majority of the members of the task
 36 force.
 37 (f) The affirmative votes of a majority of the voting members
 38 appointed to the task force are required for the task force to act on any
 39 measure.
 40 (g) The members of the task force serve at the pleasure of the
 41 governor.
 42 (h) The chairperson of the task force shall fill any vacancy on the



1 task force not later than forty-five (45) days after the vacancy occurs.

2 SECTION 3. IC 12-11-15-4.5 IS ADDED TO THE INDIANA
3 CODE AS A NEW SECTION TO READ AS FOLLOWS
4 [EFFECTIVE DECEMBER 30, 2018 (RETROACTIVE)]: **Sec. 4.5. (a)**
5 **As used in this section, "plan" refers to the plan required under**
6 **section 4 of this chapter.**

7 **(b) The task force shall meet at least twice annually to receive**
8 **an implementation report from the office of the secretary of family**
9 **and social services regarding implementation of the plan, as**
10 **follows:**

11 **(1) The task force shall meet not later than June 15 of each**
12 **year. At this meeting, the office of the secretary of family and**
13 **social services shall provide a report to the task force that:**

14 **(A) outlines each recommendation of the plan; and**

15 **(B) describes the progress made toward implementation of**
16 **each recommendation of the plan.**

17 **(2) The task force shall meet not later than November 20 of**
18 **each year. At this meeting, the office of the secretary of family**
19 **and social services shall provide a report to the task force**
20 **describing any legislative changes needed to implement any**
21 **recommendation of the plan.**

22 **The chairperson of the task force may call additional meetings of**
23 **the task force as needed.**

24 SECTION 4. IC 12-11-15-6, AS ADDED BY P.L.81-2017,
25 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
26 DECEMBER 30, 2018 (RETROACTIVE)]: Sec. 6. This chapter
27 expires December 31, ~~2018~~: **2025.**

28 SECTION 5. IC 12-12-1-5 IS AMENDED TO READ AS
29 FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 5. (a) The bureau shall
30 provide job placement services, including supported employment (as
31 defined in 34 CFR 363.6), on a consistent statewide basis for qualified
32 blind, visually impaired, and other persons with disabilities.

33 (b) The bureau shall increase employment opportunities for persons
34 with disabilities by encouraging and authorizing direct job placements
35 into any job that is chosen by the vocational rehabilitation client,
36 including a job provided by any organization that has a contract with
37 the bureau to provide vocational rehabilitation services.

38 (c) **As used in this subsection, "order of selection" means the**
39 **procedure used by the division to determine the priority in which**
40 **eligible individuals will receive vocational rehabilitation services**
41 **if there are insufficient resources to serve all eligible individuals in**
42 **Indiana who apply for vocational rehabilitation services. Before**



1 **December 31, 2019, the bureau shall develop a plan to serve all**
 2 **service priority categories under order of selection not later than**
 3 **December 31, 2021.**

4 SECTION 6. IC 12-15-1.3-15, AS AMENDED BY P.L.35-2016,
 5 SECTION 36, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 6 JULY 1, 2019]: Sec. 15. (a) As used in this section, "division" refers to
 7 the division of disability and rehabilitative services established by
 8 IC 12-9-1-1.

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

12 (c) ~~Before October 1, 2011,~~ The office shall apply to the United
 13 States Department of Health and Human Services for approval to
 14 amend a waiver to set an emergency placement priority for individuals
 15 in the following situations:

16 (1) Death of a primary caregiver where alternative placement in
 17 a supervised group living setting:

18 (A) is not available; or

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

20 (2) A situation in which:

21 (A) the primary caregiver is at least eighty (80) years of age;
 22 and

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

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

30 (4) There are other health and safety risks, as determined by the
 31 division director, and alternate placement in a supervised group
 32 living setting is not available or is determined by the division to
 33 be an inappropriate option.

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

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

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



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

2 (e) **Before July 1, 2021, the division, in coordination with the**
 3 **task force established by IC 12-11-15-2, shall establish new priority**
 4 **categories for individuals served by a waiver.**

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

7 SECTION 7. IC 12-15-1.3-18, AS ADDED BY P.L.217-2017,
 8 SECTION 78, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 9 JULY 1, 2019]: Sec. 18. (a) The definitions set forth in 460 IAC 6-3 as
 10 of ~~January 1, 2017~~, **January 1, 2019**, apply to the terms that are used
 11 in this section. **As used in this section, "benefits" means allowances**
 12 **and services provided by employers to employees as compensation**
 13 **in addition to salary and wages.**

14 (b) The office of the secretary shall increase the reimbursement rate
 15 for services if the services are provided as follows:

16 (1) The services are provided to an individual who receives
 17 services under a Medicaid waiver under the federal home and
 18 community based services program.

19 (2) The individual is authorized under the Medicaid waiver
 20 described in subdivision (1) to receive any of the following
 21 services:

22 (A) Adult day services.

23 (B) Prevocational services.

24 (C) Residential habilitation and support.

25 (D) Respite.

26 (E) Supported employment and extended services as defined
 27 in the family supports Medicaid waiver.

28 (F) Community habilitation and participation services.

29 (G) Workplace assistance, as defined in the family supports
 30 Medicaid waiver and the community integration habilitation
 31 Medicaid waiver.

32 (H) Facility habilitation.

33 (I) Residential habilitation and support (RHS daily).

34 (J) Transportation services.

35 (K) Participant assistance and care, as defined in the family
 36 supports Medicaid waiver.

37 (L) Facility based support, as defined in the family supports
 38 Medicaid waiver and the community integration habilitation
 39 Medicaid waiver.

40 (3) The services are delivered to the individual by a direct care
 41 staff.

42 (c) The amount of the increase in the reimbursement rate described



1 in subsection (b) for a state fiscal year beginning ~~July 1, 2017~~, **July 1,**
 2 **2019**, or thereafter is the reimbursement rate in effect as of ~~June 30,~~
 3 ~~2017~~, **June 30, 2019**, for the services listed in subsection (b)(2)
 4 multiplied by ~~five~~ **fifteen** percent (~~5%~~). **(15%)**.

5 (d) An authorized service provider shall use at least ~~seventy-five~~
 6 **eighty-five** percent (~~75%~~) **(85%)** of the amount of the increase in the
 7 reimbursement rate **for satisfaction of payroll tax liabilities and** to
 8 increase the wages **and benefits** paid to direct care staff who:

9 (1) are employed by the authorized service provider to provide
 10 services in Indiana; ~~and~~

11 (2) provide support services listed in subsection (b)(2); **and**

12 **(3) are paid on an hourly basis.**

13 (e) If a provider does not use at least ~~seventy-five~~ **eighty-five**
 14 percent (~~75%~~) **(85%)** of the increase to **satisfy payroll tax liabilities**
 15 **and** increase wages **and benefits** paid to direct care staff, the office
 16 shall recoup part or all of the increase in the reimbursement rate that
 17 the provider receives as provided in subsection (g).

18 (f) An authorized service provider providing services in Indiana
 19 shall provide written and electronic notification of its plan to **satisfy**
 20 **payroll tax liabilities and** increase wages **and benefits** to:

21 (1) direct care staff **described in subsection (d) and who are**
 22 employed by the provider; and

23 (2) the office of the secretary;

24 within thirty (30) days after the office implements an increase in
 25 reimbursement rates.

26 (g) The office may recoup the difference between ~~seventy-five~~
 27 **eighty-five** percent (~~75%~~) **(85%)** of the amount received by a provider
 28 as a result of increased reimbursement rates and the amount of the
 29 increase that is actually used by the provider to **satisfy payroll tax**
 30 **liabilities and** pay an increase in wages **and benefits** to direct care
 31 staff. The remaining ~~twenty-five~~ **fifteen** percent (~~25%~~) **(15%)** may be
 32 retained by the provider to cover ~~the other employer related costs of~~
 33 ~~providing direct care services, including payroll taxes, benefits, and~~
 34 ~~paid time for nondirect services such as paid time off and training.~~
 35 **administration and overhead costs.**

36 (h) Providers shall maintain all books, documents, papers,
 37 accounting records, and other evidence required to support the
 38 reporting of payroll information for **payment of payroll tax liabilities**
 39 **and** increased wages **and benefits** to direct care staff. Wages are
 40 defined as total compensation, **including paid time off and training,**
 41 less overtime and shift differential for direct care staff providing
 42 services to individuals receiving the services described in subsection



1 (b)(2) as reported on the provider's payroll records. Providers shall
2 make these materials available at their respective offices at all
3 reasonable times and for three (3) years from the date of final payment
4 for the services listed in subsection (b)(2) for inspection by the state or
5 its authorized designees. Providers shall furnish copies at no cost to the
6 state if requested.

7 (i) The office or its designee may recoup all or a part of the amount
8 paid using the increased reimbursement rates based upon an audit or
9 review of the supporting documentation required to be maintained
10 under subsection (h) if the provider cannot provide adequate
11 documentation to support the **payment of payroll tax liabilities and**
12 **increased wages and benefits** to direct care staff.

13 (j) If required, the office shall file Medicaid waiver amendments for
14 the family supports Medicaid waiver and the community integration
15 and habilitation Medicaid waiver related to rate increases and Medicaid
16 waiver caps only on or before ~~September 30, 2017~~, **September 30,**
17 **2019**, with the earliest possible effective date allowed by the federal
18 Centers for Medicare and Medicaid Services. If the federal Centers for
19 Medicare and Medicaid Services ~~deny~~ **denies** the Medicaid waiver
20 amendments, the office may modify the waiver amendment request. If
21 a waiver amendment is not approved, rate increases may not be granted
22 under this section.

23 (k) This section may not be construed as creating an employment
24 relationship of any kind between office staff and direct care staff of an
25 authorized service provider.

26 **SECTION 8. An emergency is declared for this act.**



COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Health, to which was referred House Bill 1488, 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 12, strike "Before".

Page 5, line 12, delete "September 1, 2019, the" and insert "The".

Page 5, line 15, delete "determined to be eligible by the division director or".

Page 6, between lines 2 and 3, begin a new paragraph and insert:

"(e) Before July 1, 2021, the division, in coordination with the task force established by IC 12-11-15-2, shall establish new priority categories for individuals served by a waiver."

Page 6, line 3, strike "(e)" and insert "(f)".

and when so amended that said bill do pass.

(Reference is to HB 1488 as introduced.)

KIRCHHOFER

Committee Vote: yeas 12, nays 0.

