

# SENATE BILL No. 359

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 12-21-5-6; IC 16-39-2.

**Synopsis:** Individualized mental health safety plans. Requires the division of mental health and addiction to establish a standard format for individualized mental health safety plans. Requires each psychiatric crisis center, psychiatric inpatient unit, and psychiatric residential treatment provider to, upon request and without the consent of the patient, disclose a patient's individualized mental health safety plan to certain licensed physicians and mental health providers. Provides that a psychiatric crisis center, psychiatric inpatient unit, or psychiatric residential treatment provider that discloses an individualized mental health safety plan to certain licensed physicians and mental health providers in good faith is immune from civil and criminal liability. Requires psychiatric crisis centers, psychiatric inpatient units, and psychiatric residential treatment providers to: (1) collaboratively develop a mental health safety plan with each patient; (2) explain the benefits of coordinating care and sharing mental health safety plans with mental health providers in the community that can help with the patient's safe transition back into the community; and (3) make a good faith effort before a patient leaves a facility at which the patient is receiving care to obtain the patient's consent to disclose the patient's individualized mental health safety plan with mental health providers, integrated school based mental health providers, and mental health community paramedicine programs that will be supporting the patient's safe transition back into the community and, if applicable, school.

**Effective:** July 1, 2019.

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January 10, 2019, read first time and referred to Committee on Health and Provider Services.

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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.

## SENATE BILL No. 359

A BILL FOR AN ACT to amend the Indiana Code concerning health.

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

- 1 SECTION 1. IC 12-21-5-6 IS ADDED TO THE INDIANA CODE
- 2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
- 3 1, 2019]: **Sec. 6. (a) The division shall establish a standard format**
- 4 **for an individualized mental health safety plan that may be**
- 5 **disclosed without a patient's consent under IC 16-39-2-6(b).**
- 6 **(b) An individualized mental health safety plan format approved**
- 7 **by the division under this section must:**
- 8 **(1) provide that a mental health provider develop the**
- 9 **individualized mental health safety plan collaboratively with**
- 10 **the patient; and**
- 11 **(2) include the following:**
- 12 **(A) The patient's name, address, and contact information.**
- 13 **(B) Early warning signs that a crisis may be developing.**
- 14 **(C) Internal coping strategies.**
- 15 **(D) Contact information for individuals and social settings**
- 16 **that may provide distraction for the patient.**
- 17 **(E) Contact information for persons from whom the**



1 patient can ask for help.

2 (F) Contact information for professionals or agencies that  
3 the patient can contact at the onset of or during a crisis.

4 (G) A plan for making the environment safe for the  
5 patient.

6 (H) The one (1) thing that matters most to the patient and  
7 for which the patient considers worth living.

8 (I) Other information identified by the division.

9 SECTION 2. IC 16-39-2-5.5 IS ADDED TO THE INDIANA CODE  
10 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
11 1, 2019]: **Sec. 5.5. Each psychiatric crisis center, psychiatric  
12 inpatient unit, and psychiatric residential treatment provider shall  
13 do the following:**

14 (1) Collaboratively develop an individualized mental health  
15 safety plan with each patient.

16 (2) Explain the benefits of coordinating care and sharing  
17 individualized mental health safety plans with mental health  
18 providers in the community that can help with the patient's  
19 safe transition back into the community.

20 (3) Make a good faith effort before a patient leaves the facility  
21 at which the patient is receiving care to obtain the patient's  
22 consent to disclose the patient's individualized mental health  
23 safety plan with mental health providers, integrated school  
24 based mental health providers, and mental health community  
25 paramedicine programs that will be supporting the patient's  
26 safe transition back into the community and, if applicable,  
27 school.

28 SECTION 3. IC 16-39-2-6, AS AMENDED BY P.L.233-2015,  
29 SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
30 JULY 1, 2019]: **Sec. 6. (a) Without the consent of the patient, the  
31 patient's mental health record may only be disclosed as follows:**

32 (1) To individuals who meet the following conditions:

33 (A) Are employed by:

34 (i) the provider at the same facility or agency;

35 (ii) a managed care provider (as defined in IC 12-7-2-127);  
36 or

37 (iii) a health care provider or mental health care provider, if  
38 the mental health records are needed to provide health care  
39 or mental health services to the patient.

40 (B) Are involved in the planning, provision, and monitoring of  
41 services.

42 (2) To the extent necessary to obtain payment for services



- 1 rendered or other benefits to which the patient may be entitled, as  
2 provided in IC 16-39-5-3.
- 3 (3) To the patient's court appointed counsel and to the Indiana  
4 protection and advocacy services commission.
- 5 (4) For research conducted in accordance with IC 16-39-5-3 and  
6 the rules of the division of mental health and addiction, the rules  
7 of the division of disability and rehabilitative services, or the rules  
8 of the provider.
- 9 (5) To the division of mental health and addiction for the purpose  
10 of data collection, research, and monitoring managed care  
11 providers (as defined in IC 12-7-2-127) who are operating under  
12 a contract with the division of mental health and addiction.
- 13 (6) To the extent necessary to make reports or give testimony  
14 required by the statutes pertaining to admissions, transfers,  
15 discharges, and guardianship proceedings.
- 16 (7) To a law enforcement agency if any of the following  
17 conditions are met:
- 18 (A) A patient escapes from a facility to which the patient is  
19 committed under IC 12-26.
- 20 (B) The superintendent of the facility determines that failure  
21 to provide the information may result in bodily harm to the  
22 patient or another individual.
- 23 (C) A patient commits or threatens to commit a crime on  
24 facility premises or against facility personnel.
- 25 (D) A patient is in the custody of a law enforcement officer or  
26 agency for any reason and:
- 27 (i) the information to be released is limited to medications  
28 currently prescribed for the patient or to the patient's history  
29 of adverse medication reactions; and
- 30 (ii) the provider determines that the release of the  
31 medication information will assist in protecting the health,  
32 safety, or welfare of the patient.
- 33 Mental health records released under this clause must be  
34 maintained in confidence by the law enforcement agency  
35 receiving them.
- 36 (8) To a coroner or medical examiner, in the performance of the  
37 individual's duties.
- 38 (9) To a school in which the patient is enrolled if the  
39 superintendent of the facility determines that the information will  
40 assist the school in meeting educational needs of the patient.
- 41 (10) To the extent necessary to satisfy reporting requirements  
42 under the following statutes:



- 1 (A) IC 12-10-3-10.  
 2 (B) IC 12-24-17-5.  
 3 (C) IC 16-41-2-3.  
 4 (D) IC 31-25-3-2.  
 5 (E) IC 31-33-5-4.  
 6 (F) IC 34-30-16-2.  
 7 (G) IC 35-46-1-13.  
 8 (11) To the extent necessary to satisfy release of information  
 9 requirements under the following statutes:  
 10 (A) IC 12-24-11-2.  
 11 (B) IC 12-24-12-3, IC 12-24-12-4, and IC 12-24-12-6.  
 12 (C) IC 12-26-11.  
 13 (12) To another health care provider in a health care emergency.  
 14 (13) For legitimate business purposes as described in  
 15 IC 16-39-5-3.  
 16 (14) Under a court order under IC 16-39-3.  
 17 (15) With respect to records from a mental health or  
 18 developmental disability facility, to the United States Secret  
 19 Service if the following conditions are met:  
 20 (A) The request does not apply to alcohol or drug abuse  
 21 records described in 42 U.S.C. 290dd-2 unless authorized by  
 22 a court order under 42 U.S.C. 290dd-2(b)(2)(c).  
 23 (B) The request relates to the United States Secret Service's  
 24 protective responsibility and investigative authority under 18  
 25 U.S.C. 3056, 18 U.S.C. 871, or 18 U.S.C. 879.  
 26 (C) The request specifies an individual patient.  
 27 (D) The director or superintendent of the facility determines  
 28 that disclosure of the mental health record may be necessary  
 29 to protect a person under the protection of the United States  
 30 Secret Service from serious bodily injury or death.  
 31 (E) The United States Secret Service agrees to only use the  
 32 mental health record information for investigative purposes  
 33 and not disclose the information publicly.  
 34 (F) The mental health record information disclosed to the  
 35 United States Secret Service includes only:  
 36 (i) the patient's name, age, and address;  
 37 (ii) the date of the patient's admission to or discharge from  
 38 the facility; and  
 39 (iii) any information that indicates whether or not the patient  
 40 has a history of violence or presents a danger to the person  
 41 under protection.  
 42 (16) To the statewide waiver ombudsman established under



- 1 IC 12-11-13, in the performance of the ombudsman's duties.  
 2 **(b) Each psychiatric crisis center, psychiatric inpatient unit, and**  
 3 **psychiatric residential treatment provider shall, upon request and**  
 4 **without the consent of the patient, disclose a patient's**  
 5 **individualized mental health safety plan that is in the standard**  
 6 **format established by the division of mental health and addiction**  
 7 **under IC 12-21-5-6 to the following:**  
 8 **(1) The medical director of a mental health community**  
 9 **paramedicine program, as determined by the Indiana**  
 10 **emergency medical services commission, that:**  
 11 **(A) is operating in a county in Indiana in which the patient**  
 12 **resides; and**  
 13 **(B) meets the following conditions:**  
 14 **(i) The staff of the mental health community**  
 15 **paramedicine program has completed additional**  
 16 **research based mental health, suicide prevention, and**  
 17 **deescalation technique training.**  
 18 **(ii) The mental health community paramedicine**  
 19 **program uses physician developed mental health**  
 20 **protocols.**  
 21 **(iii) The mental health community paramedicine**  
 22 **program operates under the supervision of a medical**  
 23 **director who is a physician licensed and in good standing**  
 24 **in Indiana.**  
 25 **(2) A mental health provider (as defined in IC 16-49-1-7) who:**  
 26 **(A) has a master's or doctorate degree in mental health;**  
 27 **(B) is licensed and in good standing in Indiana; and**  
 28 **(C) works in a research based, integrated school based**  
 29 **mental health program that:**  
 30 **(i) is implemented in the school the patient attends;**  
 31 **(ii) requires that mental health records and mental**  
 32 **health safety plans be stored in a secure location that is**  
 33 **protected under state and federal health information**  
 34 **privacy laws and segregated from school records;**  
 35 **(iii) requires that a majority of the school's teachers and**  
 36 **other employees complete evidence based mental health**  
 37 **and suicide prevention training;**  
 38 **(iv) has designated personnel to facilitate and ensure the**  
 39 **successful integration of social emotional learning and**  
 40 **mental health in the school;**  
 41 **(v) provides integrated, school based mental health and**  
 42 **substance use disorder services that are delivered in a**



1                   culturally responsive manner and include evidence based  
 2                   practices with a seamless referral and follow-up process;  
 3                   (vi) has a designated evidence based suicide prevention  
 4                   protocol and rapid response team;  
 5                   (vii) has a designated mental health clinical crisis liaison  
 6                   who helps students and parents or guardians of students  
 7                   successfully transition from psychiatric inpatient or  
 8                   residential treatment back to school; and  
 9                   (viii) includes the preparation of an evaluation of the  
 10                  impact of the integrated, school based mental health  
 11                  program on clinical and educational outcomes.

12                  **An individualized mental health safety plan disclosed under this**  
 13                  **subsection may only be used to support a patient's welfare and**  
 14                  **safety and is considered otherwise confidential information under**  
 15                  **applicable state and federal laws.**

16                  ~~(b)~~ (c) After information is disclosed under subsection (a)(15) and  
 17                  if the patient is evaluated to be dangerous, the records shall be  
 18                  interpreted in consultation with a licensed mental health professional  
 19                  on the staff of the United States Secret Service.

20                  ~~(c)~~ (d) A person who discloses information under subsection (a)(7),  
 21                  ~~or~~ (a)(15), **or subsection (b)** in good faith is immune from civil and  
 22                  criminal liability.

