



March 24, 2017

ENGROSSED
SENATE BILL No. 499

DIGEST OF SB 499 (Updated March 22, 2017 6:34 pm - DI 77)

Citations Affected: IC 12-23; IC 35-48.

Synopsis: Opioid addiction. Provides that, after approval of the Indiana commission to combat drug abuse (commission), the division of mental health and addiction (division) shall establish a three year opioid treatment pilot program (pilot program) for opioid abuse disorder in Tippecanoe, Marion, and Wayne counties. Establishes the criteria for the program. Requires the division to collect data and issue a report to the legislative council on the pilot program. Specifies that certain persons: (1) charged with or convicted of a drug offense; and (2) who received an overdose intervention drug for an acute opioid overdose; are entitled to priority admission in a forensic diversion program, a pretrial diversion program, or another program, including a drug court program, offering treatment for persons with addictive disorders.

Effective: July 1, 2017.

Raatz, Bohacek, Houchin,
Hershman, Taylor G

(HOUSE SPONSORS — STEUERWALD, KIRCHHOFER, ZENT, BROWN C)

January 17, 2017, read first time and referred to Committee on Judiciary. Reassigned to Committee on Corrections and Criminal Law pursuant to Rule 68(b).

February 21, 2017, amended, reported favorably — Do Pass; reassigned to Committee on Appropriations.

February 23, 2017, amended, reported favorably — Do Pass.

February 27, 2017, read second time, ordered engrossed. Engrossed.

February 28, 2017, read third time, passed. Yeas 43, nays 7.

HOUSE ACTION

March 7, 2017, read first time and referred to Committee on Public Health.

March 23, 2017, amended, reported — Do Pass.

ES 499—LS 6196/DI 106



March 24, 2017

First Regular Session 120th General Assembly (2017)

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 2016 Regular Session of the General Assembly.

ENGROSSED SENATE BILL No. 499

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

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

1 SECTION 1. IC 12-23-21.2 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2017]:

4 **Chapter 21.2. Opioid Treatment Pilot Program**

5 **Sec. 1. The following definitions apply throughout this chapter:**

6 (1) "Certified treatment provider" means a person certified
7 by the division to provide opioid treatment services.

8 (2) "Division" means the division of mental health and
9 addiction.

10 (3) "Opioid treatment services" means evidence based
11 treatment and recovery support services provided in an
12 inpatient, residential, or outpatient setting to individuals
13 diagnosed with opioid use disorder. The services include:

14 (A) opioid reversal medication;

15 (B) addiction counseling;

16 (C) inpatient detoxification; and

17 (D) medication assisted treatment, including a federal Food

ES 499—LS 6196/DI 106



- 1 and Drug Administration approved long acting,
2 nonaddictive medication for the treatment of opioid
3 dependence.
- 4 (4) "Program" means the opioid treatment pilot program for
5 opioid use disorder established under section 2 of this chapter.
- 6 Sec. 2. (a) Subject to the approval of the Indiana commission to
7 combat drug abuse, the division of mental health and addiction
8 shall establish a three (3) year opioid treatment pilot program for
9 opioid use disorder.
- 10 (b) The program shall be designed to assist participants in
11 overcoming opioid use disorder by providing inpatient, residential,
12 and outpatient opioid treatment services.
- 13 (c) An individual is eligible to participate in the program if the
14 individual is:
- 15 (1) at least eighteen (18) years of age;
16 (2) not being charged with a felony or misdemeanor; and
17 (3) incapacitated by opioid use disorder as demonstrated by
18 the fact that the individual is at serious risk of injury or death
19 due to abuse of opioids.
- 20 (d) The division shall establish the program in the following
21 counties:
- 22 (1) Tippecanoe County.
23 (2) Marion County.
24 (3) Wayne County.
- 25 (e) A county may use:
- 26 (1) outpatient commitment proceedings under IC 12-26-14;
27 and
28 (2) commitment proceedings under IC 12-26;
29 in appropriate cases if a person meets the requirements of the
30 statute.
- 31 Sec. 3. (a) Opioid treatment services may be provided only by a
32 certified treatment provider.
- 33 (b) A certified treatment provider shall do the following:
- 34 (1) Conduct initial and periodic behavioral health assessments
35 for each patient.
36 (2) Provide opioid treatment services.
37 (3) Periodically review each patient's treatment plan.
38 (4) Consider changes to the treatment plan with the goal of
39 requiring the minimal clinically necessary medication dose,
40 including, when appropriate, the goal of opioid abstinence.
41 (5) Transition off agonist and partial agonist therapies with
42 the goal, when appropriate, of opioid abstinence.



- 1 **(6) Provide reintegration services, which may include:**
 2 **(A) case management;**
 3 **(B) daily living skills;**
 4 **(C) vocational services;**
 5 **(D) housing assistance;**
 6 **(E) community support services; and**
 7 **(F) care coordination.**
- 8 **(c) The commission may make a grant, or authorize the use of**
 9 **an existing grant, to establish and maintain an electronic system**
 10 **that may be used for one (1) or more of the following:**
- 11 **(1) Electronic remote monitoring of a person receiving**
 12 **treatment in the program.**
- 13 **(2) Videoconferencing to allow a provider to examine or**
 14 **provide treatment to a person receiving treatment at a distant**
 15 **location.**
- 16 **(3) Videoconferencing among a court, a person receiving**
 17 **treatment in the program, and any other persons whose**
 18 **presence may be necessary or useful.**
- 19 **Sec. 4. (a) The division shall maintain and operate or contract**
 20 **with a certified treatment provider to provide opioid treatment**
 21 **services in accordance with this chapter.**
- 22 **(b) The division may use available state owned buildings that**
 23 **may be converted and used to provide inpatient treatment for**
 24 **opioid detoxification, treatment, and reintegration services as**
 25 **described in this chapter.**
- 26 **Sec. 5. (a) The division shall collect data and report the**
 27 **outcomes of the services provided under this chapter to the**
 28 **legislative council in an electronic format under IC 5-14-6 not later**
 29 **than November 1, 2020.**
- 30 **(b) The report shall include the following:**
- 31 **(1) The number of patients served by the program.**
 32 **(2) The average length of time spent in the program.**
 33 **(3) The number and type of opioid treatment services**
 34 **provided by the program.**
 35 **(4) The number of patients demonstrating improvement in**
 36 **functioning, as defined by the division, while receiving opioid**
 37 **treatment services in the program.**
 38 **(5) The number of patients who transitioned to opioid**
 39 **abstinence.**
 40 **(6) A summary description of the most effective opioid**
 41 **treatment services.**
 42 **(7) The patient relapse rate after leaving the program.**



- 1 **(8) The number of patients arrested upon leaving the**
- 2 **program, and the reason for the arrest, if known.**
- 3 **(9) Recommendations to improve the effectiveness and**
- 4 **efficiency of the program.**
- 5 **Sec. 6. This chapter expires December 31, 2020.**
- 6 SECTION 2. IC 35-48-4-12.5 IS ADDED TO THE INDIANA
- 7 CODE AS A NEW SECTION TO READ AS FOLLOWS
- 8 [EFFECTIVE JULY 1, 2017]: **Sec. 12.5. (a) This section applies to a**
- 9 **person:**
- 10 **(1) charged with or convicted of a violation of section 6 of this**
- 11 **chapter based on the possession of a narcotic drug classified**
- 12 **in schedule I or II; and**
- 13 **(2) who was administered an overdose intervention drug (as**
- 14 **defined in IC 16-18-2-263.9) for an acute opioid overdose.**
- 15 **(b) Except as provided in subsection (c), a person to whom this**
- 16 **section applies is entitled to be enrolled on a priority basis in:**
- 17 **(1) a forensic diversion program (as described in IC 11-12-3.7)**
- 18 **providing a treatment plan for a person with an addictive**
- 19 **disorder;**
- 20 **(2) a pretrial diversion program offered by the prosecuting**
- 21 **attorney that mandates treatment for addictive disorders; or**
- 22 **(3) another county program, including a drug court program,**
- 23 **that provides treatment for persons suffering from addictive**
- 24 **disorders who have been charged with or convicted of a drug**
- 25 **offense.**
- 26 **(c) A person to whom this section applies is not entitled to**
- 27 **enrollment in a program described in subsection (b) if:**
- 28 **(1) an appropriate program is not available in the county;**
- 29 **(2) the person is not eligible for an appropriate program; or**
- 30 **(3) placement in a program is not appropriate due to the**
- 31 **person's criminal history.**



Report of the President
Pro Tempore

Madam President: Pursuant to Senate Rule 68(b), I hereby report that Senate Bill 499, currently assigned to the Committee on Judiciary, be reassigned to the Committee on Corrections and Criminal Law.

LONG

COMMITTEE REPORT

Madam President: The Senate Committee on Corrections and Criminal Law, to which was referred Senate Bill No. 499, 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:

Delete the title and insert the following:

A BILL FOR AN ACT concerning criminal law and procedure and to make an appropriation.

Page 1, delete lines 1 through 17, begin a new paragraph and insert:

"SECTION 1. IC 12-23-21 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]:

Chapter 21. Opioid Treatment Pilot Program

Sec. 1. The following definitions apply throughout this chapter:

- (1) "Certified treatment provider" means a person certified by the division to provide opioid treatment services.**
- (2) "Division" means the division of mental health and addiction.**
- (3) "Opioid treatment services" means evidence based treatment and recovery support services provided in an inpatient, residential, or outpatient setting to individuals diagnosed with opioid use disorder. The services include:

 - (A) opioid reversal medication;**
 - (B) addiction counseling;**
 - (C) inpatient detoxification; and**
 - (D) medication assisted treatment, including a federal Food and Drug Administration approved long acting, nonaddictive medication for the treatment of opioid dependence.****
- (4) "Program" means the involuntary treatment pilot program for opioid use disorder established under section 2**



of this chapter.

Sec. 2. (a) The division of mental health and addiction shall establish a three (3) year involuntary treatment pilot program for opioid use disorder.

(b) The program shall be designed to assist participants in overcoming opioid use disorder by providing inpatient, residential, and outpatient opioid treatment services.

(c) An individual is eligible to participate in the program if the individual is:

- (1)** at least eighteen (18) years of age;
- (2)** not being charged with a felony or misdemeanor; and
- (3)** incapacitated by opioid use disorder as demonstrated by the fact that the individual is at serious risk of injury or death due to abuse of opioids.

(d) The division shall establish the program in the following counties:

- (1)** Allen County.
- (2)** Marion County.
- (3)** Wayne County.

Sec. 3. (a) Opioid treatment services may be provided only by a certified treatment provider.

(b) A certified treatment provider shall do the following:

- (1)** Conduct initial and periodic behavioral health assessments for each patient.
- (2)** Provide opioid treatment services.
- (3)** Periodically review each patient's treatment plan.
- (4)** Consider changes to the treatment plan with the goal of requiring the minimal clinically necessary medication dose, including, when appropriate, the goal of opioid abstinence.
- (5)** Transition off agonist and partial agonist therapies with the goal, when appropriate, of opioid abstinence.
- (6)** Provide reentry services, which may include:
 - (A)** case management;
 - (B)** daily living skills;
 - (C)** vocational services;
 - (D)** housing assistance;
 - (E)** community support services; and
 - (F)** care coordination.

Sec. 4. (a) The division shall maintain and operate or contract with a certified treatment provider to provide opioid treatment services in accordance with this chapter.

(b) The division may use available state owned buildings that



may be converted and used to provide inpatient treatment for opioid detoxification, treatment, and reentry services as described in this chapter.

Sec. 5. (a) The division shall collect data and report the outcomes of the services provided under this chapter to the legislative council in an electronic format under IC 5-14-6 not later than November 1, 2020.

(b) The report shall include the following:

- (1)** The number of patients served by the program.
- (2)** The average length of time spent in the program.
- (3)** The number and type of opioid treatment services provided by the program.
- (4)** The number of patients demonstrating improvement in functioning, as defined by the division, while receiving opioid treatment services in the program.
- (5)** The number of patients who transitioned to opioid abstinence.
- (6)** A summary description of the most effective opioid treatment services.
- (7)** The patient relapse rate after leaving the program.
- (8)** The number of patients arrested upon leaving the program, and the reason for the arrest, if known.
- (9)** Recommendations to improve the effectiveness and efficiency of the program.

Sec. 6. This chapter expires December 31, 2020.

SECTION 2. IC 12-26-0.5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]:

Chapter 0.5. Definitions

Sec. 1. As used in this article, "emergency medical services provider" has the meaning set forth in IC 16-41-10-1.

SECTION 3. IC 12-26-1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 1. **(a)** An individual who is mentally ill and either dangerous or gravely disabled may be involuntarily detained or committed under any of the following statutes:

- (1) IC 12-26-4 (immediate detention).
- (2) IC 12-26-5 (emergency detention).
- (3) IC 12-26-6 (temporary commitment).
- (4) IC 12-26-7 (regular commitment).

(b) An individual who is at serious risk of injury or death due to opioid abuse may be involuntarily detained or committed under



any of the following statutes:

- (1) IC 12-26-4 (immediate detention).
- (2) IC 12-26-5 (emergency detention).
- (3) IC 12-26-6 (temporary commitment).
- (4) IC 12-26-7 (regular commitment).

SECTION 4. IC 12-26-4-1, AS AMENDED BY P.L.4-2013, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 1. **(a)** A law enforcement officer, having reasonable grounds to believe that an individual has a mental illness, is either dangerous or gravely disabled, and is in immediate need of hospitalization and treatment, may do the following:

- (1) Apprehend and transport the individual to the nearest appropriate facility. The individual may not be transported to a state institution.
- (2) Charge the individual with an offense if applicable.

(b) An emergency medical services provider, having reasonable grounds to believe that an individual is at serious risk of injury or death due to abuse of opioids and is in immediate need of treatment, may transport the individual to the nearest appropriate facility. If the emergency medical services provider is not a law enforcement officer, the emergency medical services provider may request the assistance of a law enforcement officer, who may transport the individual to an appropriate facility. An individual may not be transported to a state institution.

(c) Evidence that:

- (1) an individual suffered respiratory or central nervous system depression consistent with an acute opioid overdose; and**
- (2) the individual's symptoms were significantly alleviated not later than fifteen (15) minutes after the individual was administered an overdose intervention drug (as defined in IC 16-18-2-263.9);**

is prima facie evidence that the individual is at serious risk of injury or death due to abuse of opioids and is in immediate need of treatment.

SECTION 5. IC 12-26-4-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 2. ~~A law enforcement officer~~ **An emergency medical services provider** who transports or **causes to be transported** an individual to a facility under section 1 of this chapter shall submit to the facility a written statement containing the basis for the ~~officer's~~ **provider's** conclusion that reasonable grounds exist under this chapter.



SECTION 6. IC 12-26-4-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 5. (a) Except as provided **in subsection (b), and** in section 6 of this chapter, an individual may not be detained under this chapter for more than twenty-four (24) hours from the time of admission to the facility.

(b) An individual detained under this chapter due to serious risk of death or injury due to abuse of opioids may not be detained under this chapter for more than forty-eight (48) hours from the time of admission to the facility.

SECTION 7. IC 12-26-4-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 6. If the superintendent or the attending physician believes the individual should be detained for more than ~~twenty-four (24) hours from time of admission to the facility;~~ **the period described in section 5 of this chapter,** the superintendent or the physician must have an application filed for emergency detention under IC 12-26-5 immediately upon the earlier of the following:

- (1) **When** a judge becomes available.
- (2) Within seventy-two (72) hours of admission to the facility.

SECTION 8. IC 12-26-5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 1. (a) An individual may be detained in a facility for not more than seventy-two (72) hours under this chapter, excluding Saturdays, Sundays, and legal holidays, if a written application for detention **under subsection (b) or (c)** is filed with the facility. The individual may not be detained in a state institution unless the detention is instituted by the state institution.

(b) Except as provided in subsection (c), an application under subsection (a) must contain both of the following:

- (1) A statement of the applicant's belief that the individual is:
 - (A) mentally ill and either dangerous or gravely disabled; and
 - (B) in need of immediate restraint.
- (2) A statement by at least one (1) physician that, based on:
 - (A) an examination; or
 - (B) information given the physician;

the individual may be mentally ill and either dangerous or gravely disabled.

(c) This subsection applies to an individual detained under this chapter due to serious risk of death or injury due to abuse of opioids. An application under subsection (a) must contain both of the following:

- (1) A statement of the applicant's belief that the individual is:
 - (A) at serious risk of injury or death due to abuse of



- opioids; and
(B) in need of immediate treatment.
(2) A statement by at least one (1) physician that, based on:
(A) an examination; or
(B) information given the physician;
the individual may be at serious risk of injury or death due to abuse of opioids.
(d) Evidence that:
(1) an individual suffered respiratory or central nervous system depression consistent with an acute opioid overdose; and
(2) the individual's symptoms were significantly alleviated not later than fifteen (15) minutes after the individual was administered an overdose intervention drug (as defined in IC 16-18-2-263.9);
is prima facie evidence that the individual is at serious risk of injury or death due to abuse of opioids and is in immediate need of treatment.

SECTION 9. IC 12-26-5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 3. An individual detained under this chapter may be examined and given emergency treatment necessary to do the following:

- (1) Preserve the health and safety of the individual.
- (2) Protect other persons and property.
- (3) Treat an opioid addiction.**

SECTION 10. IC 12-26-5-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 4. If during a detention period under this chapter the superintendent or the attending physician determines that there is not probable cause to believe the individual is:

- (1) mentally ill and either dangerous or gravely disabled; or**
 - (2) at serious risk of injury or death due to abuse of opioids;**
- a report shall be made under section 5 of this chapter.

SECTION 11. IC 12-26-5-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 5. Before the end of a detention period under this chapter, the superintendent of the facility or the individual's attending physician shall make a written report to the court. The report must contain both of the following:

- (1) A statement that the individual has been examined.
- (2) A statement whether there is probable cause to believe that the individual:
 - (A) is:
 - (i) mentally ill and either dangerous or gravely disabled; or**



(ii) at serious risk of injury or death due to abuse of opioids; and

(B) requires continuing care and treatment.

SECTION 12. IC 12-26-5-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 7. If a report made under section 5 of this chapter states there is probable cause, the report shall recommend both of the following:

(1) That the court hold a hearing to determine whether:

(A) the individual is:

(i) mentally ill and either dangerous or gravely disabled; or

(ii) at serious risk of injury or death due to abuse of opioids; and

(B) there is a need for continuing involuntary detention.

(2) That the individual be detained in the facility pending the hearing.

SECTION 13. IC 12-26-5-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 9. (a) After receiving a report described in section 7 of this chapter, the court may do any of the following:

(1) Order the individual released.

(2) Order the individual's continued detention pending a preliminary hearing. The purpose of a hearing under this subdivision is to determine if there is probable cause to believe that the individual is:

(A) **either:**

(i) mentally ill and either dangerous or gravely disabled; or

(ii) at serious risk of injury or death due to abuse of opioids; and

(B) in need of temporary or regular commitment.

(3) Order a final hearing. The purpose of a hearing ordered under this subdivision is to determine if the individual is:

(A) **either:**

(i) mentally ill and either dangerous or gravely disabled; or

(ii) at serious risk of injury or death due to abuse of opioids; and

(B) in need of temporary or regular commitment.

(b) A hearing ordered under subsection (a) must be held not later than two (2) days after the order.

SECTION 14. IC 12-26-5-12, AS AMENDED BY P.L.99-2007, SECTION 130, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 12. If it is determined that there was not probable cause to believe that an individual:



- (1) had a mental illness and was dangerous; **or**
 (2) **was at serious risk of injury or death due to abuse of opioids;**

when taken into custody and transported to the facility to be detained, the costs of transportation to and care and maintenance in the facility during the period of detention shall be paid by the county in which the individual was taken into custody.

SECTION 15. IC 12-26-6-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 1. (a) An individual who is alleged to be mentally ill and either dangerous or gravely disabled may be committed to a facility for not more than ninety (90) days under this chapter.

(b) An individual who is alleged to be at serious risk of death or injury due to opioid addiction may be committed to a facility for not more than ninety (90) days under this chapter.

SECTION 16. IC 12-26-6-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 2. (a) A commitment under this chapter may be begun by any of the following methods:

- (1) Upon request of the superintendent under IC 12-26-3-5.
- (2) An order of the court having jurisdiction over the individual following emergency detention.
- (3) Filing a petition with a court having jurisdiction in the county:
 - (A) of residence of the individual; or
 - (B) where the individual may be found.

(b) A petitioner under subsection (a)(3) must be at least eighteen (18) years of age.

(c) A petition under subsection (a)(3) must include a physician's written statement stating both of the following:

- (1) The physician has examined the individual within the past thirty (30) days.
- (2) The physician believes the individual is:
 - (A) **either:**
 - (i) mentally ill and either dangerous or gravely disabled; **or**
 - (ii) **at serious risk of death or injury due to opioid addiction;** and
 - (B) in need of custody, care, or treatment in an appropriate facility.

SECTION 17. IC 12-26-6-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 6. The court may appoint a physician to do the following:

- (1) Examine the individual.
- (2) Report, before the hearing, the physician's opinion as to the



following:

(A) Whether the individual is:

- (i) mentally ill and either dangerous or gravely disabled; **or**
- (ii) at serious risk of death or injury due to opioid addiction.**

(B) Whether the individual needs temporary commitment to a facility for diagnosis, care, and treatment.

SECTION 18. IC 12-26-6-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 7. If a report made under section 6 of this chapter is that the individual is not:

(1) either dangerous or gravely disabled; **or**

(2) at serious risk of death or injury due to opioid addiction;

the court may terminate the proceedings and dismiss the petition. Otherwise, the hearing shall proceed as scheduled or as continued by the court.

SECTION 19. IC 12-26-6-8, AS AMENDED BY P.L.110-2009, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 8. (a) If, upon the completion of the hearing and consideration of the record, the court finds that the individual is mentally ill and either dangerous or gravely disabled, the court may order the individual to:

(1) be committed to an appropriate facility; or

(2) enter an outpatient treatment program under IC 12-26-14 for a period of not more than ninety (90) days.

(b) If, upon the completion of the hearing and consideration of the record, the court finds that the individual is at serious risk of death or injury due to opioid addiction, the court may order the individual to:

(1) be committed to an appropriate facility; or

(2) enter an appropriate evidence based outpatient treatment program approved by the division of mental health and addiction;

for a period of not more than ninety (90) days.

~~(b)~~ (c) The court's order must require that the superintendent of the facility or the attending physician file a treatment plan with the court within fifteen (15) days of the individual's admission to the facility under a commitment order.

~~(c)~~ (d) If the commitment ordered under subsection (a) **or** (b) is to a state institution administered by the division of mental health and addiction, the record of commitment proceedings must include a report from a community mental health center stating both of the following:

(1) That the community mental health center has evaluated the



individual.

(2) That commitment to a state institution administered by the division of mental health and addiction under this chapter is appropriate.

~~(d)~~ (e) The physician who makes the statement required by section 2(c) of this chapter may be affiliated with the community mental health center that submits to the court the report required by ~~subsection (c)~~: **subsection (d)**.

~~(e)~~ (f) If the commitment is of an adult to a research bed at Larue D. Carter Memorial Hospital as set forth in IC 12-21-2-3, the report from a community mental health center is not required.

~~(f)~~ (g) If a commitment ordered under subsection (a) **or (b)** is to a state institution administered by the division of disability and rehabilitative services, the record of commitment proceedings must include a report from a service coordinator employed by the division of disability and rehabilitative services stating that, based on a diagnostic assessment of the individual, commitment to a state institution administered by the division of disability and rehabilitative services under this chapter is appropriate.

~~(g)~~ (h) If the court makes a finding under subsection (a) **or (b)** (including a finding in reference to a child under IC 31-37-18-3), the court shall transmit any information required by the division of state court administration to the division of state court administration for transmission to the NICS (as defined in IC 35-47-2.5-2.5) in accordance with IC 33-24-6-3.

SECTION 20. IC 12-26-6-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 9. (a) Unless the court has entered an order under IC 12-26-12-1, the superintendent or the attending physician may discharge the individual before the end of the commitment period if the superintendent or attending physician determines that the individual is not:

(1) mentally ill and either dangerous or gravely disabled; **or**

(2) **at serious risk of death or injury due to opioid addiction.**

(b) If an individual is discharged under subsection (a), the superintendent or the attending physician shall notify the court, and the court shall enter an order terminating the commitment.

SECTION 21. IC 12-26-6-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 10. (a) The period of commitment of an individual under this chapter may be extended for one (1) additional period of not more than ninety (90) days through a proceeding under this section.

(b) A proceeding under this section must be begun before the end



of the first period of commitment.

(c) A proceeding under this section may be begun by filing with the court a report by the attending physician or superintendent that states that the individual continues to be:

(1) **either:**

(A) mentally ill and either dangerous or gravely disabled; **or**
(B) at serious risk of death or injury due to opioid addiction; and

(2) in need of continuing custody, care, or treatment in the facility for an additional period of not more than ninety (90) days.

(d) Upon receiving a report under subsection (c), the court shall set a hearing on the report.

(e) The hearing required by subsection (d) must be held before the end of the current commitment period.

(f) Notice of the hearing required by subsection (d) shall be given to the committed individual and all other interested individuals at least five (5) days before the hearing date.

(g) A committed individual's rights and a petitioner's rights and hearing procedures are the same as those provided for the first period of commitment.

(h) If at the completion of the hearing and the consideration of the record the individual is found to be:

(1) **either:**

(A) mentally ill and either dangerous or gravely disabled; **or**
(B) at serious risk of death or injury due to opioid addiction; and

(2) in need of continuing custody, care, or treatment in the facility;

the court may order the individual's continuing custody, care, or treatment in the facility for one (1) additional period of not more than ninety (90) days.

SECTION 22. IC 12-26-6-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 11. At least twenty (20) days before the end of the first or second temporary commitment period, the superintendent of the facility or the attending physician shall make a report to the court that states all of the following:

(1) The mental condition of the individual.

(2) Whether the individual is:

(A) dangerous or gravely disabled; **or**

(B) at serious risk of death or injury due to opioid addiction.

(3) Whether the individual needs continuing care and treatment



in a facility for a period of more than ninety (90) days.

SECTION 23. IC 12-26-7-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 1. This chapter applies to a proceeding for commitment of an individual:

(1) alleged to be:

(A) mentally ill and either dangerous or gravely disabled; **or**
 (B) **at serious risk of death or injury due to opioid addiction;** and

(2) whose commitment is reasonably expected to require custody, care, or treatment in a facility for more than ninety (90) days.

SECTION 24. IC 12-26-7-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 2. (a) This section does not apply to the commitment of an individual if the individual has previously been committed under IC 12-26-6.

(b) A proceeding for the commitment of an individual who appears to be suffering from a chronic mental illness **or opioid addiction** may be begun by filing with a court having jurisdiction a written petition by any of the following:

- (1) A health officer.
- (2) A police officer.
- (3) A friend of the individual.
- (4) A relative of the individual.
- (5) The spouse of the individual.
- (6) A guardian of the individual.
- (7) The superintendent of a facility where the individual is present.
- (8) A prosecuting attorney in accordance with IC 35-36-2-4.
- (9) A prosecuting attorney or the attorney for a county office if civil commitment proceedings are initiated under IC 31-34-19-3 or IC 31-37-18-3.
- (10) A third party that contracts with the division of mental health and addiction to provide competency restoration services to a defendant under IC 35-36-3-3 or IC 35-36-3-4.

SECTION 25. IC 12-26-7-3, AS AMENDED BY P.L.141-2006, SECTION 68, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 3. (a) A petition filed under section 2 of this chapter must include a physician's written statement that states both of the following:

- (1) The physician has examined the individual within the past thirty (30) days.
- (2) The physician believes that the individual is:
 - (A) **either:**



(i) mentally ill and either dangerous or gravely disabled; or
 (ii) **at serious risk of death or injury due to opioid addiction;** and

(B) in need of custody, care, or treatment in a facility for a period expected to be more than ninety (90) days.

(b) Except as provided in subsection (d), if the commitment is to a state institution administered by the division of mental health and addiction, the record of the proceedings must include a report from a community mental health center stating both of the following:

(1) The community mental health center has evaluated the individual.

(2) Commitment to a state institution administered by the division of mental health and addiction under this chapter is appropriate.

(c) The physician who makes the statement required by subsection (a) may be affiliated with the community mental health center that makes the report required by subsection (b).

(d) If the commitment is of an adult to a research bed at Larue D. Carter Memorial Hospital, as set forth in IC 12-21-2-3, the report from a community mental health center is not required.

(e) If a commitment ordered under subsection (a) is to a state institution administered by the division of disability and rehabilitative services, the record of commitment proceedings must include a report from a service coordinator employed by the division of disability and rehabilitative services stating that, based on a diagnostic assessment of the individual, commitment to a state institution administered by the division of disability and rehabilitative services under this chapter is appropriate.

SECTION 26. IC 12-26-7-5, AS AMENDED BY P.L.110-2009, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 5. (a) If at the completion of the hearing and the consideration of the record an individual is found to be mentally ill and either dangerous or gravely disabled, **or if the individual is found to be at serious risk of death or injury due to opioid addiction,** the court may enter either of the following orders:

(1) For the individual's custody, care, or treatment, or continued custody, care, or treatment in an appropriate facility. **If an individual is committed to an appropriate facility for treatment of an opioid addiction, the individual may be committed for not more than three hundred sixty-five (365) days.**

(2) For the individual to enter an outpatient therapy program under IC 12-26-14.



(b) An order entered under subsection (a) continues until any of the following occurs:

- (1) The individual has been:
 - (A) discharged from the facility; or
 - (B) released from the therapy program.
- (2) The court enters an order:
 - (A) terminating the commitment; or
 - (B) releasing the individual from the therapy program.

(c) If the court makes a finding under subsection (a), the court shall transmit any information required by the division of state court administration to the division of state court administration for transmission to the NICS (as defined in IC 35-47-2.5-2.5) in accordance with IC 33-24-6-3.

SECTION 27. IC 12-26-9-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 3. If it is determined in a proceeding under this article that an individual:

- (1) is:
 - (A) mentally ill and either dangerous or gravely disabled; **or**
 - (B) **at serious risk of death or injury due to opioid addiction;**
- (2) should be committed to a facility for custody, care, and treatment; and
- (3) is a veteran who may be eligible for treatment in a federal facility;

the court may communicate with the federal department concerning the availability of federal facilities and the individual's eligibility to be committed to a federal facility.

SECTION 28. IC 12-26-10-4, AS AMENDED BY P.L.146-2008, SECTION 418, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 4. If the comfort and the care of an individual are not otherwise provided:

- (1) from the individual's estate;
- (2) by the individual's relatives or friends; **or**
- (3) through financial assistance from the department of child services or the division of family resources;
- (4) **through insurance;**
- (5) **through Medicaid or another federal assistance program;**
- (6) **through the healthy Indiana plan established under IC 12-15-44.5-3; or**
- (7) **through another state assistance program;**

the court may order the assistance furnished and paid for out of the general fund of the county.



SECTION 29. IC 12-26-14-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 1. If a hearing has been held under IC 12-26-6 or IC 12-26-7 and the court finds that the individual is:

(1) **either:**

- (A) mentally ill and either dangerous or gravely disabled; **or**
 (B) **at serious risk of death or injury due to opioid addiction;**

(2) likely to benefit from an outpatient therapy program that is designed to decrease the individual's dangerousness, ~~or~~ disability, **addiction, or risk of death or injury;**

(3) not likely to be: ~~either~~

- (A) dangerous or gravely disabled; **or**
 (B) **at serious risk of death or injury due to opioid addiction;**

if the individual complies with the therapy program; and

(4) recommended for an outpatient therapy program by the individual's examining physician;

the court may order the individual to enter a therapy program as an outpatient.

SECTION 30. IC 12-26-14-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 5. (a) Upon receiving notification under section 4 of this chapter, the court shall reopen the original ~~commitment~~ **commitment** proceeding and determine whether the:

(1) individual:

(A) has failed to comply with the requirements of section 3 of this chapter;

(B) is:

- (i) mentally ill and either dangerous or gravely disabled; **or**
 (ii) **at serious risk of death or injury due to opioid addiction;** and

(C) should be committed to a facility under this article; or

(2) individual should continue to be maintained on an outpatient commitment, subject to an additional court order that:

(A) requires a law enforcement officer to apprehend and transport the individual to a facility for treatment; and

(B) applies:

- (i) after notification to the court by the facility or provider responsible for the individual's commitment; and
 (ii) whenever the individual fails to attend a scheduled outpatient appointment or fails to comply with a condition



of the outpatient commitment.

(b) If the court receives notice of a transfer under section 4(e) of this chapter, the court may conduct a review to determine the validity of the transfer.

SECTION 31. IC 12-26-14-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 7. If an individual:

- (1) has been committed under IC 12-26-6 or IC 12-26-7;
- (2) is likely to benefit from a therapy program designed to decrease the individual's dangerousness, ~~or~~ grave disability, **opioid addiction, or risk of serious injury or death;**
- (3) is not likely to be ~~either~~ dangerous, ~~or~~ gravely disabled, **or at risk of serious injury or death** if the individual continues to follow the therapy program; and
- (4) is recommended for an outpatient therapy program by the individual's attending or examining physician;

the superintendent of the facility in which the individual is committed or the court at the time of commitment may place the individual on outpatient status for the remainder of the individual's commitment period, subject to the conditions of outpatient therapy programs under section 8 of this chapter.

SECTION 32. IC 12-26-14-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 9. If the individual's attending or examining physician determines that the individual has failed to comply with the requirements under section 8 of this chapter and is likely to be dangerous, ~~or~~ gravely disabled, **or at risk of serious injury or death due to opioid addiction**, the individual:

- (1) may, in accordance with IC 12-24-8, be returned to the facility to which the individual is committed under this article as an inpatient; or
- (2) may be transferred to a short term sub-acute stabilization treatment program under this chapter.

SECTION 33. IC 12-26-15-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 1. (a) At least annually, and more often if directed by the court, the superintendent of the facility or the attending physician including the superintendent or attending physician of an outpatient therapy program, shall file with the court a review of the individual's care and treatment. The review must contain a statement of the following:

- (1) The mental condition of the individual.
- (2) Whether the individual is:
 - (A) dangerous or gravely disabled; **or**
 - (B) **at risk of serious injury or death due to opioid**



addiction.

(3) Whether the individual:

(A) needs to remain in the facility; or

(B) may be cared for under a guardianship.

(b) If the court has entered an order under IC 12-26-12-1, the superintendent or the attending physician shall give notice of the review to the petitioner in the individual's commitment proceeding and other persons that were designated by the court under IC 12-26-12-1 or as provided in this section.

(c) If an individual has been committed under IC 35-36-2-4, the superintendent of the facility or the attending physician shall:

(1) file with the court the report described in subsection (a) every six (6) months, or more often if directed by the court; and

(2) notify the court, the petitioner, and any other person or persons designated by the court under this section:

(A) at least ten (10) days before, or as soon as practicable in case of an emergency, when:

(i) the committed individual is allowed outside the facility or the grounds of the facility not under custodial supervision;

(ii) the committed individual is transferred to another facility and the location of that facility; or

(iii) the committed individual is discharged or the individual's commitment is otherwise terminated; and

(B) as soon as practicable if the committed individual escapes.

(d) The court may designate as a person or persons to receive the notices provided in this section a person or persons who suffered harm as the result of a crime for which the committed individual was on trial.

(e) The court may designate as a person or persons to receive the notices provided in this section:

(1) an individual or individuals described in subsection (d); or

(2) a designated representative if the person or persons described in subsection (d) are incompetent, deceased, less than eighteen (18) years of age, or otherwise incapable of receiving or understanding a notice provided for in this section.

(f) A commitment order issued by a court under IC 35-36-2-4 and this article must include the following:

(1) The mailing address, electronic mail address, facsimile number, and telephone number of the following:

(A) The petitioner who filed the petition under IC 35-36-2-4.

(B) Any other person designated by the court.

(2) The notice requirements set forth in this section.



SECTION 34. IC 12-26-15-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 5. (a) Unless the court has entered an order under IC 12-26-12, the individual may be discharged before the end of the commitment period or court ordered therapy program period if either of the following apply:

(1) The superintendent or the attending physician determines that the individual is not:

- (A) mentally ill and either dangerous or gravely disabled; or
- (B) at risk of serious injury or death due to opioid addiction;**

(2) The superintendent determines, with the written consent of the attending physician, that the individual will enter a facility that provides more appropriate care and treatment immediately following the individual's discharge.

(b) If an individual is discharged or released from a therapy program under this section, the superintendent or the attending physician shall notify the court. The court shall enter an order terminating the commitment or releasing the individual from the therapy program.

SECTION 35. [EFFECTIVE JULY 1, 2017] **(a) There is appropriated to the division of mental health and addiction seven hundred fifty thousand dollars (\$750,000) from the state general fund for its use in establishing and funding the involuntary treatment pilot program for opioid use disorder established by IC 12-23-21-2, as added by this act, beginning July 1, 2017, and ending June 30, 2018.**

(b) There is appropriated to the division of mental health and addiction seven hundred fifty thousand dollars (\$750,000) from the state general fund for its use in establishing and funding the involuntary treatment pilot program for opioid use disorder established by IC 12-23-21-2, as added by this act, beginning July 1, 2018, and ending June 30, 2019.

(c) This SECTION expires June 30, 2019."

Page 2, delete lines 1 through 16.

Renumber all SECTIONS consecutively.

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

(Reference is to SB 499 as introduced.)

YOUNG M, Chairperson

Committee Vote: Yeas 8, Nays 0.

ES 499—LS 6196/DI 106



COMMITTEE REPORT

Madam President: The Senate Committee on Appropriations, to which was referred Senate Bill No. 499, 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:

Delete the title and insert the following:

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

Page 2, line 7, delete "The" and insert "**Subject to the approval of the Indiana commission to combat drug abuse, the**".

Page 2, between lines 24 and 25, begin a new paragraph and insert:

"(e) The Indiana commission to combat drug abuse may make grants totaling not more than seven hundred fifty thousand dollars (\$750,000) in each state fiscal year for purposes of the program."

Page 18, delete lines 24 through 37.

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 499 as printed February 22, 2017.)

KENLEY, Chairperson

Committee Vote: Yeas 12, Nays 1.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Health, to which was referred Senate Bill 499, 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 1, delete "IC 12-23-21" and insert "IC 12-23-21.2".

Page 1, line 4, delete "21." and insert "**21.2**".

Page 2, line 4, delete "involuntary" and insert "**opioid**".

Page 2, line 9, delete "involuntary" and insert "**opioid**".

Page 2, line 23, delete "Allen" and insert "**Tippecanoe**".

Page 2, delete lines 26 through 28, begin a new paragraph and insert:

"(e) A county may use:

(1) outpatient commitment proceedings under IC 12-26-14;

and

(2) commitment proceedings under IC 12-26;

ES 499—LS 6196/DI 106



in appropriate cases if a person meets the requirements of the statute."

Page 2, line 41, delete "reentry" and insert "**reintegration**".

Page 3, between lines 5 and 6, begin a new paragraph and insert:

"(c) The commission may make a grant, or authorize the use of an existing grant, to establish and maintain an electronic system that may be used for one (1) or more of the following:

(1) Electronic remote monitoring of a person receiving treatment in the program.

(2) Videoconferencing to allow a provider to examine or provide treatment to a person receiving treatment at a distant location.

(3) Videoconferencing among a court, a person receiving treatment in the program, and any other persons whose presence may be necessary or useful."

Page 3, line 11, delete "reentry" and insert "**reintegration**".

Page 3, delete lines 35 through 42.

Delete pages 4 through 17.

Page 18, delete lines 1 through 27.

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 499 as printed February 24, 2017.)

KIRCHHOFER

Committee Vote: yeas 12, nays 0.

