

HOUSE BILL No. 1187

DIGEST OF INTRODUCED BILL

Citations Affected: IC 12-9-4-8; IC 12-15-1.3-15;
IC 34-30-2.1-129.5.

Synopsis: Special service review team and emergency placement. Establishes the special service review team to review denied applications and applications for which a determination has not been made for the community integration and habilitation waiver. Limits the geographical area of review. Establishes reporting requirements. Requires the division of disability and rehabilitative services to obtain consent from a waiver applicant in order to share the application and information accompanying the application with the review team. Provides immunity for an employee who obtains consent and provides the information in good faith. Provides that the review team expires December 31, 2026. Makes changes to the situations in which an emergency placement priority may be provided for individuals under a Medicaid waiver.

Effective: Upon passage.

Olthoff

January 9, 2024, read first time and referred to Committee on Public Health.



Second Regular Session of the 123rd General Assembly (2024)

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 2023 Regular Session of the General Assembly.

HOUSE BILL No. 1187

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

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

1 SECTION 1. IC 12-9-4-8 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE
3 UPON PASSAGE]: **Sec. 8. (a) As used in this section, "review team"**
4 **refers to the special service review team established by subsection**
5 **(c).**
6 **(b) As used in this section, "waiver" refers to the community**
7 **integration and habilitation waiver.**
8 **(c) The special service review team is established.**
9 **(d) The review team shall do the following:**
10 **(1) Subject to subsection (1)(2), review denied applications**
11 **from the director for the waivers that were received after**
12 **December 1, 2024, and before June 30, 2025, from Districts 1,**
13 **4, and 8 of the bureau of disabilities services districts,**
14 **including a review of the waiver application and any other**
15 **information submitted concerning the application.**
16 **(2) Subject to subsection (1)(2), review, at the director's**
17 **discretion, waiver applications received after December 1,**



- 1 **2024, and before June 30, 2025, for which a determination has**
 2 **not been made by the director. The review team shall review**
 3 **the waiver application and information submitted concerning**
 4 **the application.**
- 5 **(3) Maintain confidentiality of any protected health**
 6 **information and personally identifiable information collected**
 7 **during the review.**
- 8 **(4) Provide the following to the director:**
- 9 **(A) Concerning the review team's review of applications**
 10 **under subdivision (1), an evaluation of information that**
 11 **can be applied to the waiver at the systems level, including**
 12 **the criteria that can be used to approve and deny waiver**
 13 **applications.**
- 14 **(B) Concerning the review team's review of applications**
 15 **under subdivision (2), and not later than thirty (30) days**
 16 **from the review team's receipt of the application from the**
 17 **director, additional information submitted concerning an**
 18 **application.**
- 19 **(5) Issue a quarterly report to the council.**
- 20 **(e) The review team may, with consent of the applicant or**
 21 **applicant's legal guardian, collect additional information related**
 22 **to an application that was not submitted with the application. The**
 23 **collection of information under this subsection:**
- 24 **(1) may be used by the review team to provide information,**
 25 **referral, and resources to applicants concerning available**
 26 **services and supports;**
- 27 **(2) does not create a responsibility on the bureau to**
 28 **reconsider an application determination; and**
- 29 **(3) does not constitute a request to appeal an application**
 30 **determination.**
- 31 **(f) The director shall appoint the members of the review team**
 32 **and fill any vacancies on the review team. The review team must**
 33 **consist of the following five (5) members who are knowledgeable**
 34 **in the waiver requirements:**
- 35 **(1) A representative from The Arc of Indiana.**
 36 **(2) A representative from a case management company that**
 37 **is approved by the bureau of disabilities services to provide**
 38 **waiver services.**
- 39 **(3) An individual who works as a behavior consultant that is**
 40 **approved by the bureau of disabilities services to provide**
 41 **waiver services.**
- 42 **(4) Two (2) individuals appointed by the director.**



- 1 **However, not more than one (1) member may be a state employee.**
 2 **(g) The director shall appoint a member of the review team to**
 3 **serve as the chairperson.**
 4 **(h) The director shall:**
 5 **(1) notify the chairperson; and**
 6 **(2) provide the waiver application and accompanying**
 7 **information submitted with the application to the review team**
 8 **to begin to review of the application;**
 9 **not later than five (5) business days after a waiver application has**
 10 **been denied. The director shall also notify the chairperson if the**
 11 **director would like additional consultation on an application**
 12 **described in subsection (d)(2).**
 13 **(i) As used in this subsection, a "conflict of interest" has the**
 14 **meaning set forth in 460 IAC 6-3-15.2 and includes a direct or**
 15 **indirect financial interest with the applicant or a prior or current**
 16 **relationship with the applicant. If a member appointed to the**
 17 **review team under subsection (f)(1) through (f)(3) has a conflict of**
 18 **interest with the applicant of a waiver application under review by**
 19 **the review team, the member shall:**
 20 **(1) inform the director of the conflict of interest; and**
 21 **(2) recuse themselves from review of the application for which**
 22 **the member has a conflict of interest.**
 23 **The director may appoint a member to the review team to fill the**
 24 **vacancy of the recused member during the review of the**
 25 **application for which the member has been recused.**
 26 **(j) Each member of the review team who is not a state employee**
 27 **is entitled to the following:**
 28 **(1) The minimum salary per diem provided by**
 29 **IC 4-10-11-2.1(b).**
 30 **(2) Reimbursement for traveling expenses and other expenses**
 31 **actually incurred in connection with the member's duties as**
 32 **provided under IC 4-13-1-4 and in the state travel policies and**
 33 **procedures established by the Indiana department of**
 34 **administration and approved by the budget agency.**
 35 **(k) A member of the review team who is a state employee is not**
 36 **entitled to any of the following:**
 37 **(1) The minimum salary per diem provided by**
 38 **IC 4-10-11-2.1(b).**
 39 **(2) Reimbursement for traveling expenses as provided under**
 40 **IC 4-13-1-4.**
 41 **(3) Other expenses actually incurred in connection with the**
 42 **member's duties.**



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- (l) The division shall do the following:**
 - (1) Obtain consent from a waiver applicant or the applicant's legal guardian to share the waiver application and additional information submitted with the waiver application with the review team. An applicant or applicant's legal guardian must voluntarily consent to sharing the application and information with the review team. If an applicant or applicant's legal guardian denies consent to share the application and submitted information with the review team, the division may not share the application and information with the review team and the denial of consent may not affect a determination on the applicant's waiver application.**
 - (2) Provide members of the review team with the waiver application and submitted information required under subsection (d)(1) and (d)(2) for the applications where consent has been obtained under subdivision (1).**
 - (3) Provide administrative support for the review team concerning the following:**
 - (A) Contacting applicants who have provided consent under this section.**
 - (B) Accessing the application and information submitted with the application.**
 - (C) Receiving compensation as described in subsection (j).**
 - The review team is responsible for any other administrative tasks not specified in this subdivision, including scheduling review team meetings and meeting the confidentiality requirements specified in subsection (d)(3).**
 - (4) Pay the expenses of the review team.**
 - (m) An employee of the division who provides records in accordance with subsection (l) in good faith is not subject to liability in:**
 - (1) a civil;**
 - (2) an administrative;**
 - (3) a disciplinary; or**
 - (4) a criminal;**
 - action that might otherwise be imposed as a result of the disclosure of the records.**
 - (n) This section expires December 31, 2026.**
- SECTION 2. IC 12-15-1.3-15, AS AMENDED BY P.L.156-2020, SECTION 54, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 15. (a) As used in this section, "division" refers to the division of disability and rehabilitative services established



1 by IC 12-9-1-1.

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

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

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

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

12 ~~(B) is determined by the division to be an inappropriate option:~~

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

14 ~~(A) The primary caregiver is at least eighty (80) years of age.~~
15 ~~and~~

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

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

23 (4) There ~~are~~ **is evidence of** other health and safety risks, as
24 determined by the division director, ~~and alternate placement in a~~
25 ~~supervised group living setting is not available or is determined~~
26 ~~by the division to be an inappropriate option. where other~~
27 **available services through:**

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

30 **(B) supports that families and communities provide;**
31 **are insufficient to address the other health and safety risks, as**
32 **determined by the division director.**

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

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

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

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



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

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

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

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

