



January 30, 2024

HOUSE BILL No. 1386

DIGEST OF HB 1386 (Updated January 30, 2024 11:33 am - DI 147)

Citations Affected: IC 4-21.5; IC 11-12; IC 12-7; IC 12-8; IC 12-9.1; IC 12-10; IC 12-11; IC 12-15; IC 16-39; IC 31-37; IC 34-30; IC 35-52; noncode.

Synopsis: Medicaid matters. Sets forth the powers and duties of the office of the secretary of family and social services (office of the secretary) concerning Medicaid home and community based services waivers. Defines "home and community based services waiver". Requires a provider of services under a home and community based services waiver to follow any waiver requirements under federal law and developed by the office of the secretary. Establishes requirements for home and community based services waivers. Relocates provisions requiring reimbursement for assisted living services for individuals who are aged and disabled and receiving services under a Medicaid waiver. Specifies that: (1) these provisions apply to an individual receiving services under a home and community based services waiver; and (2) reimbursement is required for certain services that are part of the individual's home and community based service plan. Relocates provisions establishing limitations concerning assisted living services provided in a home and community based services program. Relocates a provision requiring the office of the secretary to annually determine any state savings generated by home and community based services. Removes a provision allowing the division of aging to adopt rules concerning an appeals process for a housing with services establishment provider's determination that the provider is unable to meet the health needs of a resident and allows the office of the secretary to adopt rules concerning the appeals process. Requires an
(Continued next page)

Effective: July 1, 2024.

**Barrett, Schaibley, Criswell,
Shackleford**

January 11, 2024, read first time and referred to Committee on Public Health.
January 30, 2024, amended, reported — Do Pass.

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Digest Continued

individual who provides attendant care services for compensation from Medicaid to register with the office of the secretary. Removes the requirement that the division of aging administer programs established under Medicaid waivers for in-home services for treatment of medical conditions. Provides that provisions of law concerning the statewide waiver ombudsman apply to an individual who has a developmental disability and receives services administered by the bureau of disabilities services. (Current law specifies that these provisions apply to an individual who has a developmental disability and receives services under the federal home and community based services program). Specifies that these provisions do not apply to an individual served by the long term care ombudsman program. Changes references from "statewide waiver ombudsman" to "statewide bureau of disabilities services ombudsman". Requires certain facilities to provide notice within a specified time to the division of family resources (division) that a delinquent child will be released from the facility. Requires the division to take action necessary to ensure that the delinquent child, if eligible, participates in the Medicaid program upon the child's release and receives services required by federal law. Specifies that an insurer may not deny a Medicaid claim solely due to a lack of prior authorization in accordance with federal law. Requires an insurer to respond to a state inquiry regarding a Medicaid claim not later than 60 days after receiving the inquiry. Specifies, for purposes of a provision concerning Medicaid third party liability, that the state is considered to have acquired the rights of the person to payment by any other party for accumulated and future health care items or services. (Current law provides that the state is considered to have acquired these rights for the health care items or services.) Repeals a provision providing that licensed home health agencies and licensed personal services agencies are approved to provide certain services under a Medicaid waiver granted to the state under federal law that provides services for treatment of medical conditions. Repeals provisions requiring the division of aging to submit a plan, before October 1, 2017, to the general assembly to expand the scope and availability of home and community based services for individuals who are aged and disabled. Makes conforming amendments.

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January 30, 2024

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. 1386

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 4-21.5-3-6, AS AMENDED BY P.L.241-2023,
2 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2024]: Sec. 6. (a) Notice shall be given under this section
4 concerning the following:
5 (1) A safety order under IC 22-8-1.1.
6 (2) Any order that:
7 (A) imposes a sanction on a person or terminates a legal right,
8 duty, privilege, immunity, or other legal interest of a person;
9 (B) is not described in section 4 or 5 of this chapter or
10 IC 4-21.5-4; and
11 (C) by statute becomes effective without a proceeding under
12 this chapter if there is no request for a review of the order
13 within a specified period after the order is issued or served.
14 (3) A notice of program reimbursement or equivalent
15 determination or other notice regarding a hospital's

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1 reimbursement issued by the office of Medicaid policy and
 2 planning or by a contractor of the office of Medicaid policy and
 3 planning regarding a hospital's year end cost settlement.

4 (4) A determination of audit findings or an equivalent
 5 determination by the office of Medicaid policy and planning or by
 6 a contractor of the office of Medicaid policy and planning arising
 7 from a Medicaid postpayment or concurrent audit of a hospital's
 8 Medicaid claims.

9 (5) A license suspension or revocation under:

10 (A) IC 24-4.4-2;

11 (B) IC 24-4.5-3;

12 (C) IC 28-1-29;

13 (D) IC 28-7-5;

14 (E) IC 28-8-4.1; or

15 (F) IC 28-8-5.

16 (6) An order issued by the secretary or the secretary's designee
 17 against providers regulated by the **office of the secretary, the**
 18 division of aging, or the bureau of disabilities services and not
 19 licensed by the Indiana department of health under IC 16-27 or
 20 IC 16-28.

21 (b) When an agency issues an order described by subsection (a), the
 22 agency shall give notice to the following persons:

23 (1) Each person to whom the order is specifically directed.

24 (2) Each person to whom a law requires notice to be given.

25 A person who is entitled to notice under this subsection is not a party
 26 to any proceeding resulting from the grant of a petition for review
 27 under section 7 of this chapter unless the person is designated as a
 28 party in the record of the proceeding.

29 (c) The notice must include the following:

30 (1) A brief description of the order.

31 (2) A brief explanation of the available procedures and the time
 32 limit for seeking administrative review of the order under section
 33 7 of this chapter.

34 (3) Any other information required by law.

35 (d) An order described in subsection (a) is effective fifteen (15) days
 36 after the order is served, unless a statute other than this article specifies
 37 a different date or the agency specifies a later date in its order. This
 38 subsection does not preclude an agency from issuing, under
 39 IC 4-21.5-4, an emergency or other temporary order concerning the
 40 subject of an order described in subsection (a).

41 (e) If a petition for review of an order described in subsection (a) is
 42 filed within the period set by section 7 of this chapter and a petition for



1 stay of effectiveness of the order is filed by a party or another person
 2 who has a pending petition for intervention in the proceeding, an
 3 administrative law judge shall, as soon as practicable, conduct a
 4 preliminary hearing to determine whether the order should be stayed in
 5 whole or in part. The burden of proof in the preliminary hearing is on
 6 the person seeking the stay. The administrative law judge may stay the
 7 order in whole or in part. The order concerning the stay may be issued
 8 after an order described in subsection (a) becomes effective. The
 9 resulting order concerning the stay shall be served on the parties and
 10 any person who has a pending petition for intervention in the
 11 proceeding. It must include a statement of the facts and law on which
 12 it is based.

13 SECTION 2. IC 11-12-5-9, AS ADDED BY P.L.185-2015,
 14 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 15 JULY 1, 2024]: Sec. 9. (a) This section is effective beginning
 16 ~~September 1, 2015~~: **July 1, 2024.**

17 (b) For an offender who is incarcerated for less than thirty (30) days,
 18 a sheriff, in consultation with the county executive or a person
 19 designated by the county executive, may:

20 (1) assist an offender in applying for Medicaid; and

21 (2) act as the offender's Medicaid authorized representative as
 22 described in IC 11-10-3-7;

23 so that the offender might be eligible for coverage when the offender
 24 is subsequently released from the county jail.

25 (c) Before discharge or release from a county jail **or juvenile**
 26 **facility described in IC 12-15-1-20.4** of an offender incarcerated for
 27 at least thirty (30) days, the sheriff, in consultation with the county
 28 executive or a person designated by the county executive in the county
 29 in which the incarcerated person is located shall assist the offender in
 30 applying for Medicaid, if eligible, as the authorized representative as
 31 described in IC 11-10-3-7 or as a health navigator under the
 32 requirements of IC 27-19-2-12, so that the offender might be eligible
 33 for coverage when the offender is subsequently released from the
 34 county jail **or juvenile facility.**

35 (d) The sheriff shall provide the assistance described in subsection
 36 (c) in sufficient time to ensure that the offender will be able to receive
 37 coverage at the time the offender is released from the county jail **or**
 38 **juvenile facility.**

39 (e) A county executive may contract with any entity that complies
 40 with IC 27-19-2-12, including a hospital or outreach eligibility worker,
 41 to assist with Medicaid applications under this section. A county
 42 executive may develop intergovernmental agreements with other



1 counties to provide both authorized representative and health navigator
 2 services required under this section. Upon a determination that an
 3 incarcerated individual qualifies for Medicaid coverage, the office of
 4 the secretary of family and social services, division of family resources,
 5 shall authorize and then immediately suspend Medicaid coverage for
 6 those inmates not requiring immediate medical attention.

7 SECTION 3. IC 12-7-2-18.1, AS ADDED BY P.L.149-2023,
 8 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 9 JULY 1, 2024]: Sec. 18.1. "Assisted living services", for purposes of
 10 ~~IC 12-10-11.5~~; **IC 12-8-1.6**, has the meaning set forth in
 11 ~~IC 12-10-11.5-8(a)~~; **IC 12-8-1.6-1**.

12 SECTION 4. IC 12-7-2-107.7 IS ADDED TO THE INDIANA
 13 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
 14 [EFFECTIVE JULY 1, 2024]: **Sec. 107.7. "Home and community**
 15 **based services waiver", for purposes of IC 12-8-1.6, has the**
 16 **meaning set forth in IC 12-8-1.6-2.**

17 SECTION 5. IC 12-7-2-117.1, AS AMENDED BY P.L.141-2006,
 18 SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 19 JULY 1, 2024]: Sec. 117.1. **(a) "Individual in need of self-directed**
 20 **in-home care", for purposes of IC 12-8-1.7, has the meaning set**
 21 **forth in IC 12-8-1.7-2.**

22 **(b) "Individual in need of self-directed in-home care", for purposes**
 23 **of IC 12-10-17.1, has the meaning set forth in IC 12-10-17.1-6.**

24 SECTION 6. IC 12-7-2-122.6 IS ADDED TO THE INDIANA
 25 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
 26 [EFFECTIVE JULY 1, 2024]: **Sec. 122.6. "Level of services", for**
 27 **purposes of IC 12-8-1.6, has the meaning set forth in IC 12-8-1.6-3.**

28 SECTION 7. IC 12-7-2-135.3 IS AMENDED TO READ AS
 29 FOLLOWS [EFFECTIVE JULY 1, 2024]: Sec. 135.3. **(a)**
 30 **"Ombudsman", for purposes of IC 12-10-13, has the meaning set forth**
 31 **in IC 12-10-13-4.5.**

32 **(b) "Ombudsman", for purposes of IC 12-11-13, has the**
 33 **meaning set forth in IC 12-11-13-2.**

34 SECTION 8. IC 12-7-2-149.1, AS AMENDED BY P.L.10-2019,
 35 SECTION 55, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 36 JULY 1, 2024]: Sec. 149.1. "Provider" means the following:

37 (1) For purposes of IC 12-10-7, the meaning set forth in
 38 IC 12-10-7-3.

39 (2) For purposes of the following statutes, an individual, a
 40 partnership, a corporation, or a governmental entity that is
 41 enrolled in the Medicaid program under rules adopted under
 42 IC 4-22-2 by the office of Medicaid policy and planning:



- 1 (A) IC 12-14-1 through IC 12-14-8.
 2 (B) IC 12-15, except IC 12-15-32, IC 12-15-33, and
 3 IC 12-15-34.
 4 (C) IC 12-17.6.
 5 (3) Except as provided in subdivisions (4) and (6), for purposes
 6 of IC 12-17.2, a person who operates a child care center or child
 7 care home under IC 12-17.2.
 8 (4) For purposes of IC 12-17.2-3.5, a person that:
 9 (A) provides child care; and
 10 (B) is directly paid for the provision of the child care under the
 11 federal Child Care and Development Fund voucher program
 12 administered under 45 CFR 98 and 45 CFR 99.
 13 The term does not include an individual who provides services to
 14 a person described in clauses (A) and (B), regardless of whether
 15 the individual receives compensation.
 16 (5) For purposes of IC 12-21-1 through IC 12-29-2, an
 17 organization:
 18 (A) that:
 19 (i) provides mental health services, as defined under 42
 20 U.S.C. 300x-2(c);
 21 (ii) provides addiction services; or
 22 (iii) provides children's mental health services;
 23 (B) that has entered into a provider agreement with the
 24 division of mental health and addiction under IC 12-21-2-7 to
 25 provide services in the least restrictive, most appropriate
 26 setting; and
 27 (C) that is operated by one (1) of the following:
 28 (i) A city, town, county, or other political subdivision of the
 29 state.
 30 (ii) An agency of the state or of the United States.
 31 (iii) A political subdivision of another state.
 32 (iv) A hospital owned or operated by a unit of government
 33 or a building authority that is organized for the purpose of
 34 constructing facilities to be leased to units of government.
 35 (v) A corporation incorporated under IC 23-7-1.1 (before its
 36 repeal August 1, 1991) or IC 23-17.
 37 (vi) An organization that is exempt from federal income
 38 taxation under Section 501(c)(3) of the Internal Revenue
 39 Code.
 40 (vii) A university or college.
 41 (6) For purposes of IC 12-17.2-2-10, the following:
 42 (A) A person described in subdivision (4).



1 (B) A child care center licensed under IC 12-17.2-4.

2 (C) A child care home licensed under IC 12-17.2-5.

3 **(7) For purposes of IC 12-11-13, an authorized provider entity**
 4 **that delivers services administered by the bureau of**
 5 **disabilities services.**

6 SECTION 9. IC 12-8-1.6 IS ADDED TO THE INDIANA CODE
 7 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
 8 JULY 1, 2024]:

9 **Chapter 1.6. Medicaid Home and Community Based Services**
 10 **Waivers**

11 **Sec. 1. As used in this chapter, "assisted living services" refers**
 12 **to services covered under a home and community based services**
 13 **waiver and provided in any of the following entities:**

14 **(1) A residential care facility licensed under IC 16-28.**

15 **(2) Any other housing with services establishment.**

16 **Sec. 2. (a) As used in this chapter, "home and community based**
 17 **services waiver" refers to a federal Medicaid waiver granted to the**
 18 **state under 42 U.S.C. 1396n(c) to provide home and community**
 19 **based long term care services and supports to individuals with**
 20 **disabilities.**

21 **(b) The term does not include home and community services**
 22 **offered as part of the approved Medicaid state plan.**

23 **Sec. 3. As used in this chapter, "level of services" means a**
 24 **determination of the type of services an individual may receive**
 25 **under a Medicaid waiver based on the individual's impairment and**
 26 **dependence and the corresponding reimbursement rate for the**
 27 **determined level of care.**

28 **Sec. 4. (a) The office of the secretary has all powers necessary**
 29 **and convenient to administer a home and community based**
 30 **services waiver.**

31 **(b) The office of the secretary shall do the following:**

32 **(1) Administer money appropriated or allocated to the office**
 33 **of the secretary by the state, including money appropriated or**
 34 **allocated for a home and community based services waiver.**

35 **(2) Take any action necessary to implement a home and**
 36 **community based services waiver, including applying to the**
 37 **United States Department of Health and Human Services for**
 38 **approval to amend or renew the waiver, implement a new**
 39 **Medicaid waiver, or amend the Medicaid state plan.**

40 **(3) Ensure that a home and community based services waiver**
 41 **is subject to funding available to the office of the secretary.**

42 **(4) Ensure, in coordination with the budget agency, that the**



1 cost of a home and community based services waiver does not
 2 exceed the total amount of funding available by the budget
 3 agency, including state and federal funds, for the Medicaid
 4 programs established to provide services under a home and
 5 community based services waiver.

6 (5) Establish and administer a program for a home and
 7 community based services waiver to provide an eligible
 8 individual with care that does not cost more than services
 9 provided to a similarly situated individual residing in an
 10 institution.

11 (6) Within the limits of available resources, provide service
 12 coordination services to individuals receiving services under
 13 a home and community based services waiver, including the
 14 development of an individual service plan that:

15 (A) addresses an individual's needs;

16 (B) considers the individual's family resources and access
 17 to community and natural support; and

18 (C) is consistent with the person centered care approach
 19 for receiving services under a waiver.

20 (7) Monitor services provided by a provider that:

21 (A) provides services to an individual using funds provided
 22 by the office of the secretary or under the authority of the
 23 office of the secretary; or

24 (B) entered into one (1) or more provider agreements to
 25 provide services under a home and community based
 26 services waiver.

27 (8) Establish and administer a complaint process for:

28 (A) an individual receiving; or

29 (B) a provider described in subdivision (7) providing;
 30 services under a home and community based services waiver.

31 (c) The office of the secretary may do the following:

32 (1) At the office's discretion, delegate any of its authority
 33 under this chapter to any division or office within the office of
 34 the secretary of family and social services.

35 (2) Issue administrative orders under IC 4-21.5-3-6 regarding
 36 the provision of a home and community based services
 37 waiver.

38 Sec. 5. (a) The office of the secretary shall establish:

39 (1) eligibility criteria for an individual to receive; and

40 (2) certification criteria for a provider of;

41 services under a home and community based services waiver.

42 (b) The eligibility criteria established under subsection (a) may



1 vary based on the targeted need of each home and community
2 based services waiver.

3 (c) An individual who is determined by the office of the
4 secretary to be ineligible for services under a home and community
5 based services waiver may appeal the determination under
6 IC 4-21.5.

7 Sec. 6. The office of the secretary shall serve as the placement
8 authority for individuals receiving services under a home and
9 community based services waiver and an individual service plan.

10 Sec. 7. Subject to the availability of applicable waiver slots and
11 funding, the office of the secretary shall provide access to home
12 and community based services that are appropriate and necessary
13 for an individual determined to be eligible by the office of the
14 secretary for services under a home and community based services
15 waiver.

16 Sec. 8. A provider of services under a home and community
17 based services waiver shall follow any waiver requirements under
18 federal law and developed by the office of the secretary, including
19 the planning process, service plan, and home and community based
20 setting requirements set forth in 42 CFR 441.301.

21 Sec. 9. A home and community based services waiver, including
22 the delivery and receipt of services provided under the home and
23 community based services waiver, must meet the following
24 requirements:

- 25 (1) Be provided under public supervision.
- 26 (2) Be individualized and designed to meet the needs of
27 individuals eligible to receive services under the home and
28 community based services waiver.
- 29 (3) Meet applicable state and federal standards.
- 30 (4) Be provided by qualified personnel.
- 31 (5) Be provided, to the extent appropriate, with services
32 provided under the home and community based services
33 waiver that are provided in a home and community based
34 setting where nonwaiver individuals receive services.
- 35 (6) Be provided in accordance with an individual's service
36 plan.

37 Sec. 10. (a) As used in this section, "office" includes the
38 following:

- 39 (1) The office of the secretary of family and social services.
- 40 (2) A managed care organization that has contracted with the
41 office of Medicaid policy and planning under IC 12-15.
- 42 (3) A person that has contracted with a managed care



- 1 organization described in subdivision (2).
 2 (b) Under a home and community based services waiver that
 3 provides services to an individual who is aged or disabled, the
 4 office shall reimburse for the following services provided to the
 5 individual by a provider of assisted living services, if included in
 6 the individual's home and community based service plan:
 7 (1) Assisted living services.
 8 (2) Integrated health care coordination.
 9 (3) Transportation.
 10 (c) If the office approves an increase in the level of services for
 11 a recipient of assisted living services, the office shall reimburse the
 12 provider of assisted living services for the level of services for the
 13 increase as of the date that the provider has documentation of
 14 providing the increase in the level of services.
 15 (d) The office may reimburse for any home and community
 16 based services provided to a Medicaid recipient beginning on the
 17 date of the individual's Medicaid application.
 18 (e) The office may not do any of the following concerning
 19 assisted living services provided in a home and community based
 20 services program:
 21 (1) Require the installation of a sink in the kitchenette within
 22 any living unit of an entity that participated in the Medicaid
 23 home and community based services program before July 1,
 24 2018.
 25 (2) Require all living units within a setting that provides
 26 assisted living services to comply with physical plant
 27 requirements that are applicable to individual units occupied
 28 by a Medicaid recipient.
 29 (3) Require a provider to offer only private rooms.
 30 (4) Require a housing with services establishment provider to
 31 provide housing when:
 32 (A) the provider is unable to meet the health needs of a
 33 resident without:
 34 (i) undue financial or administrative burden; or
 35 (ii) fundamentally altering the nature of the provider's
 36 operations; and
 37 (B) the resident is unable to arrange for services to meet
 38 the resident's health needs.
 39 (5) Require a housing with services establishment provider to
 40 separate an agreement for housing from an agreement for
 41 services.
 42 (6) Prohibit a housing with services establishment provider



1 from offering studio apartments with only a single sink in the
 2 unit.
 3 (7) Preclude the use of a shared bathroom between adjoining
 4 or shared units if the participants consent to the use of a
 5 shared bathroom.
 6 (8) Reduce the scope of services that may be provided by a
 7 provider of assisted living services under the aged and
 8 disabled Medicaid waiver in effect on July 1, 2021.
 9 (f) The office of the secretary may adopt rules under IC 4-22-2
 10 that establish the right, and an appeals process, for a resident to
 11 appeal a provider's determination that the provider is unable to
 12 meet the health needs of the resident as described in subsection
 13 (e)(4). The process:
 14 (1) must require an objective third party to review the
 15 provider's determination in a timely manner; and
 16 (2) may not be required if the provider is licensed by the
 17 Indiana department of health and the licensure requirements
 18 include an appellate procedure for such a determination.
 19 Sec. 11. (a) The office of the secretary shall annually determine
 20 any state savings generated by home and community based services
 21 under this chapter by reducing the use of institutional care.
 22 (b) The office of the secretary shall annually report to the
 23 governor, the budget agency, the budget committee, the interim
 24 study committee on public health, behavioral health, and human
 25 services established by IC 2-5-1.3-4, and the executive director of
 26 the legislative services agency the savings determined under
 27 subsection (a). A report under this subsection to the executive
 28 director of the legislative services agency must be in an electronic
 29 format under IC 5-14-6.
 30 (c) Savings determined under subsection (a) may be used to fund
 31 the state's share of additional home and community based
 32 Medicaid waiver slots.
 33 Sec. 12. The office of the secretary may adopt rules under
 34 IC 4-22-2 to implement this chapter.
 35 SECTION 10. IC 12-8-1.7 IS ADDED TO THE INDIANA CODE
 36 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
 37 JULY 1, 2024]:
 38 Chapter 1.7. Individuals in Need of Self-Directed In-Home Care
 39 Sec. 1. As used in this chapter, "attendant care services" means
 40 the basic and ancillary services that the individual chooses to direct
 41 and supervise a personal services attendant to perform and that
 42 enable an individual in need of self-directed in-home care to live in



1 the individual's home and community rather than in an institution
2 and to carry out functions of daily living, self-care, and mobility.

3 Sec. 2. As used in this chapter, "individual in need of
4 self-directed in-home care" means an individual with a disability,
5 or person responsible for making health related decisions for the
6 individual with a disability, who:

7 (1) is approved to receive Medicaid waiver services under 42
8 U.S.C. 1396n(c);

9 (2) is in need of attendant care services because of
10 impairment;

11 (3) requires assistance to complete functions of daily living,
12 self-care, and mobility, including those functions included in
13 attendant care services;

14 (4) chooses to self-direct a paid personal services attendant to
15 perform attendant care services; and

16 (5) assumes the responsibility to initiate self-directed in-home
17 care and exercise judgment regarding the manner in which
18 those services are delivered, including the decision to employ,
19 train, and dismiss a personal services attendant.

20 Sec. 3. As used in this chapter, "personal services attendant"
21 means an individual who is registered to provide attendant care
22 services under this chapter and who has entered into a contract
23 with an individual and acts under the individual's direction to
24 provide attendant care services that could be performed by the
25 individual if the individual were physically capable.

26 Sec. 4. The office of the secretary shall have self-directed care
27 options and services available for an eligible individual who:

28 (1) receives services under a home and community based
29 services waiver (as defined in IC 12-8-1.6-2); and

30 (2) chooses self-directed care services.

31 Sec. 5. (a) An individual may not provide attendant care services
32 for compensation from Medicaid for an individual in need of
33 self-directed in-home care services unless the individual is
34 registered under this chapter.

35 (b) Except in instances of extraordinary care, an individual who
36 is a legally responsible relative of an individual in need of
37 self-directed in-home care, including a parent of a minor individual
38 and a spouse, is precluded from providing attendant care services
39 for compensation under this chapter.

40 Sec. 6. (a) The office of the secretary shall register an individual
41 to provide services under this chapter who provides the following:

42 (1) A personal resume containing information concerning the



1 individual's qualifications, work experience, and any
 2 credentials the individual may hold. The individual must
 3 certify that the information contained in the resume is true
 4 and accurate.

5 (2) The individual's:

6 (A) limited criminal history check from the Indiana central
 7 repository for criminal history information under
 8 IC 10-13-3;

9 (B) expanded criminal history check (as defined in
 10 IC 20-26-2-1.5); or

11 (C) criminal history check from another source allowed by
 12 law.

13 (3) If applicable, the individual's state nurse aide registry
 14 report from the Indiana department of health. This
 15 subdivision does not require an individual to be a nurse aide.

16 (4) Three (3) letters of reference.

17 (5) A registration fee. The office of the secretary shall
 18 establish the amount of the registration fee.

19 (6) Proof that the individual is at least eighteen (18) years of
 20 age.

21 (7) Any other information required by the office of the
 22 secretary.

23 (b) A registration is valid for two (2) years. A personal services
 24 attendant may renew the personal services attendant's registration
 25 by updating any information in the file that has changed and by
 26 paying the fee required under subsection (a)(5). The limited
 27 criminal history check and state nurse aid registry report required
 28 under subsection (a)(2) and (a)(3) must be updated every two (2)
 29 years.

30 (c) The office of the secretary shall maintain a file for each
 31 personal services attendant that contains:

32 (1) comments related to the provision of attendant care
 33 services submitted by an individual in need of self-directed
 34 in-home care who has employed the personal services
 35 attendant; and

36 (2) the items described in subsection (a)(1) through (a)(4).

37 (d) Upon request, the office of the secretary shall provide to an
 38 individual in need of self-directed in-home care the following:

39 (1) Without charge, a list of personal services attendants who
 40 are registered with the office of the secretary and available
 41 within the requested geographic area.

42 (2) A copy of the information of a specified personal services



- 1 attendant who is on file with the office of the secretary under
2 subsection (c). The office of the secretary may charge a fee for
3 shipping, handling, and copying expenses.
- 4 (e) The limited criminal history check requirement described in
5 subsection (a)(2) may be satisfied by fulfilling the components of an
6 expanded criminal history check under IC 20-26-2-1.5 and is
7 subject to the conditions described in IC 16-27-2-4(c).
- 8 Sec. 7. The case manager of an individual in need of
9 self-directed in-home care shall maintain an attending physician's
10 written opinion in a case file that is maintained for the individual
11 by the case manager.
- 12 Sec. 8. (a) A personal services attendant who is hired by the
13 individual in need of self-directed in-home care is an employee of
14 the individual in need of self-directed in-home care.
- 15 (b) The office of the secretary is not liable for any actions of a
16 personal services attendant or an individual in need of self-directed
17 in-home care.
- 18 (c) A personal services attendant and an individual in need of
19 self-directed in-home care are each liable for any negligent or
20 wrongful act or omission in which the person personally
21 participates.
- 22 Sec. 9. (a) Except as provided in subsection (b), an individual in
23 need of self-directed in-home care is responsible for recruiting,
24 hiring, training, paying, certifying any employment related
25 documents, dismissing, and supervising in the individual's home
26 during service hours a personal services attendant who provides
27 attendant care services for the individual.
- 28 (b) If an individual in need of self-directed in-home care is:
29 (1) less than twenty-one (21) years of age; or
30 (2) unable to direct in-home care because of a brain injury or
31 mental deficiency;
32 the individual's parent, spouse, legal guardian, or a person
33 possessing a valid power of attorney for the individual may make
34 employment, care, and training decisions and certify any
35 employment related documents on behalf of the individual.
- 36 (c) An individual in need of self-directed in-home care or an
37 individual under subsection (b) and the individual's case manager
38 shall develop an authorized care plan. The authorized care plan
39 must include a list of weekly services or tasks that must be
40 performed to comply with the authorized care plan.
- 41 Sec. 10. The individual in need of self-directed in-home care and
42 the personal services attendant must each sign a contract, in a form



1 approved by the office of the secretary, that includes, at a
2 minimum, the following provisions:

- 3 (1) The responsibilities of the personal services attendant.
- 4 (2) The frequency the personal services attendant will provide
5 attendant care services.
- 6 (3) The duration of the contract.
- 7 (4) The hourly wage of the personal services attendant. The
8 wage may not be less than the federal minimum wage or more
9 than the rate that the recipient is eligible to receive under a
10 Medicaid home and community based services waiver.
- 11 (5) Reasons and notice agreements for early termination of
12 the contract.

13 Sec. 11. (a) The office of the secretary shall amend the home and
14 community based services waiver program under the Medicaid
15 state plan to provide for the payment for attendant care services
16 provided by a personal services attendant for an individual in need
17 of self-directed in-home care under this chapter, including any
18 related record keeping and employment expenses.

19 (b) The office of the secretary shall not, to the extent permitted
20 by federal law, consider as income money paid under this chapter
21 to or on behalf of an individual in need of self-directed in-home
22 care to enable the individual to employ registered personal services
23 attendants for purposes of determining the individual's income
24 eligibility for services under this chapter or IC 12-8-1.6.

25 Sec. 12. The office of the secretary shall adopt rules under
26 IC 4-22-2 concerning the following:

- 27 (1) The method of payment to a personal services attendant
28 who provides authorized services under this chapter.
- 29 (2) Record keeping requirements for personal attendant
30 services.
- 31 (3) The receipt, review, and investigation of complaints
32 concerning the:
 - 33 (A) neglect;
 - 34 (B) abuse;
 - 35 (C) mistreatment; or
 - 36 (D) misappropriation of property;
 of an individual in need of self-directed in-home care by a
37 personal services attendant.
- 38 (4) Establishing notice and administrative hearing procedures
39 in accordance with IC 4-21.5.
- 40 (5) Appeal procedures, including judicial review of
41 administrative hearings.
- 42



- 1 **(6) Procedures to place a personal services attendant who has**
- 2 **been determined to have been guilty of:**
- 3 **(A) neglect;**
- 4 **(B) abuse;**
- 5 **(C) mistreatment; or**
- 6 **(D) misappropriation of property;**
- 7 **of an individual in need of self-directed in-home care on the**
- 8 **state nurse aide registry.**
- 9 **(7) Any rules necessary to implement this chapter.**

10 SECTION 11. IC 12-9.1-4-1, AS ADDED BY P.L.141-2006,
 11 SECTION 38, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 12 JULY 1, 2024]: Sec. 1. The division shall administer money
 13 appropriated or allocated to the division by the state, including money
 14 appropriated or allocated from the following:

- 15 (1) The federal Older Americans Act (42 U.S.C. 3001 et seq.).
- 16 (2) The United States Department of Agriculture (7 U.S.C. 612C
 17 et seq.).
- 18 ~~(3) Medicaid waiver in-home services for the elderly and disabled~~
- 19 ~~(42 U.S.C. 1396 et seq.) for treatment of medical conditions.~~
- 20 ~~(4)~~ **(3)** Money appropriated or allocated to the division to
 21 administer a program under this title.
- 22 ~~(5)~~ **(4)** Other funding sources that are designated by the general
 23 assembly or available from the federal government under grants
 24 that are consistent with the duties of the division.

25 SECTION 12. IC 12-9.1-4-2, AS ADDED BY P.L.141-2006,
 26 SECTION 38, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 27 JULY 1, 2024]: Sec. 2. The division shall administer the following
 28 programs:

- 29 (1) Programs established under any of the following statutes:
- 30 (A) This article.
- 31 (B) IC 12-10.
- 32 (2) Programs under IC 12-30, to the extent the division has
 33 responsibilities for programs under IC 12-30.
- 34 ~~(3) Medicaid waivers for in-home services for treatment of~~
- 35 ~~medical conditions.~~

36 SECTION 13. IC 12-9.1-4-3 IS REPEALED [EFFECTIVE JULY
 37 1, 2024]. Sec. 3. ~~Notwithstanding any other law:~~

- 38 ~~(1) home health agencies licensed under IC 16-27-1 are approved~~
- 39 ~~to provide home health services; and~~
- 40 ~~(2) personal services agencies licensed under IC 16-27-4 are~~
- 41 ~~approved to provide personal services;~~
- 42 ~~under any federal waiver granted to the state under 42 U.S.C. 1315 or~~



1 42 U.S.C. 1396n that provides services for treatment of medical
2 conditions:

3 SECTION 14. IC 12-10-11.5-6 IS REPEALED [EFFECTIVE JULY
4 1, 2024]. Sec. 6: (a) The office of the secretary of family and social
5 services shall annually determine any state savings generated by home
6 and community based services under this chapter by reducing the use
7 of institutional care:

8 (b) The secretary shall annually report to the governor, the budget
9 agency, the budget committee, the interim study committee on public
10 health, behavioral health, and human services established by
11 IC 2-5-1.3-4, and the executive director of the legislative services
12 agency the savings determined under subsection (a). A report under
13 this subsection to the executive director of the legislative services
14 agency must be in an electronic format under IC 5-14-6.

15 (c) Savings determined under subsection (a) may be used to fund the
16 state's share of additional home and community based Medicaid waiver
17 slots:

18 SECTION 15. IC 12-10-11.5-8 IS REPEALED [EFFECTIVE JULY
19 1, 2024]. Sec. 8: (a) As used in this chapter, "assisted living services"
20 refers to services covered under a waiver and provided in any of the
21 following entities:

22 (1) A residential care facility licensed under IC 16-28.

23 (2) Any other housing with services establishment.

24 (b) As used in this section, "level of services" means a
25 determination of the type of services an individual may receive under
26 a Medicaid waiver based on the individual's impairment and
27 dependence and the corresponding reimbursement rate for the
28 determined level of care:

29 (c) As used in this section, "office" includes the following:

30 (1) The office of the secretary of family and social services:

31 (2) A managed care organization that has contracted with the
32 office of Medicaid policy and planning under IC 12-15:

33 (3) A person that has contracted with a managed care organization
34 described in subdivision (2):

35 (d) Under a Medicaid waiver that provides services to an individual
36 who is aged or disabled, the office shall reimburse for the following
37 services provided to the individual by a provider of assisted living
38 services:

39 (1) Assisted living services:

40 (2) Integrated health care coordination:

41 (3) Transportation:

42 (e) If the office approves an increase in the level of services for a



1 recipient of assisted living services; the office shall reimburse the
 2 provider of assisted living services for the level of services for the
 3 increase as of the date that the provider has documentation of providing
 4 the increase in the level of services.

5 (f) The office may reimburse for any home and community based
 6 services provided to a Medicaid recipient beginning on the date of the
 7 individual's Medicaid application.

8 (g) The office may not do any of the following concerning assisted
 9 living services provided in a home and community based services
 10 program:

11 (1) Require the installation of a sink in the kitchenette within any
 12 living unit of an entity that participated in the Medicaid home and
 13 community based service program before July 1, 2018.

14 (2) Require all living units within a setting that provides assisted
 15 living services to comply with physical plant requirements that
 16 are applicable to individual units occupied by a Medicaid
 17 recipient.

18 (3) Require a provider to offer only private rooms.

19 (4) Require a housing with services establishment provider to
 20 provide housing when:

21 (A) the provider is unable to meet the health needs of a
 22 resident without:

23 (i) undue financial or administrative burden; or

24 (ii) fundamentally altering the nature of the provider's
 25 operations; and

26 (B) the resident is unable to arrange for services to meet the
 27 resident's health needs.

28 (5) Require a housing with services establishment provider to
 29 separate an agreement for housing from an agreement for
 30 services.

31 (6) Prohibit a housing with services establishment provider from
 32 offering studio apartments with only a single sink in the unit.

33 (7) Preclude the use of a shared bathroom between adjoining or
 34 shared units if the participants consent to the use of a shared
 35 bathroom.

36 (8) Reduce the scope of services that may be provided by a
 37 provider of assisted living services under the aged and disabled
 38 Medicaid waiver in effect on July 1, 2021.

39 (h) The division may adopt rules under IC 4-22-2 that establish the
 40 right; and an appeals process; for a resident to appeal a provider's
 41 determination that the provider is unable to meet the health needs of
 42 the resident as described in subsection (g)(4). The process:



- 1 (1) must require an objective third party to review the provider's
- 2 determination in a timely manner; and
- 3 (2) may not be required if the provider is licensed by the Indiana
- 4 department of health and the licensure requirements include an
- 5 appellate procedure for such a determination.

6 SECTION 16. IC 12-10-17.1-6, AS AMENDED BY P.L.99-2007,
 7 SECTION 68, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 8 JULY 1, 2024]: Sec. 6. As used in this chapter, "individual in need of
 9 self-directed in-home care" means an individual with a disability, or
 10 person responsible for making health related decisions for the
 11 individual with a disability, who:

- 12 (1) is approved to receive Medicaid waiver services under 42
- 13 U.S.C. 1396n(c); or is a participant in the community and home
- 14 options to institutional care for the elderly and disabled program
- 15 under IC 12-10-10;
- 16 (2) is in need of attendant care services because of impairment;
- 17 (3) requires assistance to complete functions of daily living,
- 18 self-care, and mobility, including those functions included in
- 19 attendant care services;
- 20 (4) chooses to self-direct a paid personal services attendant to
- 21 perform attendant care services; and
- 22 (5) assumes the responsibility to initiate self-directed in-home
- 23 care and exercise judgment regarding the manner in which those
- 24 services are delivered, including the decision to employ, train, and
- 25 dismiss a personal services attendant.

26 SECTION 17. IC 12-10-17.1-10, AS ADDED BY P.L.141-2006,
 27 SECTION 44, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 28 JULY 1, 2024]: Sec. 10. (a) An individual may not provide attendant
 29 care services for compensation from Medicaid or the community and
 30 home options to institutional care for the elderly and disabled program
 31 for an individual in need of self-directed in-home care services unless
 32 the individual is registered under section 12 of this chapter.

33 (b) An individual who is a legally responsible relative of an
 34 individual in need of self-directed in-home care, including a parent of
 35 a minor individual and a spouse, is precluded from providing attendant
 36 care services for compensation under this chapter.

37 SECTION 18. IC 12-10-17.1-17, AS ADDED BY P.L.141-2006,
 38 SECTION 44, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 39 JULY 1, 2024]: Sec. 17. The individual in need of self-directed
 40 in-home care and the personal services attendant must each sign a
 41 contract, in a form approved by the division, that includes, at a
 42 minimum, the following provisions:



- 1 (1) The responsibilities of the personal services attendant.
- 2 (2) The frequency the personal services attendant will provide
- 3 attendant care services.
- 4 (3) The duration of the contract.
- 5 (4) The hourly wage of the personal services attendant. The wage
- 6 may not be less than the federal minimum wage or more than the
- 7 rate that the recipient is eligible to receive under a ~~Medicaid~~
- 8 ~~home and community based services waiver~~ or the community
- 9 and home options to institutional care for the elderly and disabled
- 10 program for attendant care services.
- 11 (5) Reasons and notice agreements for early termination of the
- 12 contract.

13 SECTION 19. IC 12-10-17.1-18, AS ADDED BY P.L.141-2006,
 14 SECTION 44, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 15 JULY 1, 2024]: Sec. 18. (a) ~~The office shall amend the home and~~
 16 ~~community based services waiver program under the state Medicaid~~
 17 ~~plan to provide for the payment for attendant care services provided by~~
 18 ~~a personal services attendant for an individual in need of self-directed~~
 19 ~~in-home care under this chapter, including any related record keeping~~
 20 ~~and employment expenses.~~

21 (b) The office shall not, to the extent permitted by federal law,
 22 consider as income money paid under this chapter to or on behalf of an
 23 individual in need of self-directed in-home care to enable the
 24 individual to employ registered personal services attendants, for
 25 purposes of determining the individual's income eligibility for services
 26 under this chapter.

27 SECTION 20. IC 12-10-17.1-20, AS ADDED BY P.L.141-2006,
 28 SECTION 44, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 29 JULY 1, 2024]: Sec. 20. (a) The division and office may adopt rules
 30 under IC 4-22-2 that are necessary to implement this chapter.

31 (b) ~~The office shall apply for any federal waivers necessary to~~
 32 ~~implement this chapter.~~

33 SECTION 21. IC 12-10-19 IS REPEALED [EFFECTIVE JULY 1,
 34 2024]. (Home and Community Based Services).

35 SECTION 22. IC 12-11-13-1 IS AMENDED TO READ AS
 36 FOLLOWS [EFFECTIVE JULY 1, 2024]: Sec. 1. (a) **Except as**
 37 **provided in subsection (b)**, this chapter applies only to an individual
 38 who:

- 39 (1) has a developmental disability; and
- 40 (2) receives services ~~under a waiver under the federal home and~~
- 41 ~~community based services program.~~ **administered by the**
- 42 **bureau.**



1 **(b) This chapter does not apply to an individual served by the**
 2 **long term care ombudsman program established under**
 3 **IC 12-10-13.**

4 SECTION 23. IC 12-11-13-2 IS AMENDED TO READ AS
 5 FOLLOWS [EFFECTIVE JULY 1, 2024]: Sec. 2. As used in this
 6 chapter, "ombudsman" refers to the statewide ~~waiver~~ **bureau of**
 7 **disabilities services** ombudsman established by section 3 of this
 8 chapter. The term includes individuals approved to act in the capacity
 9 of ombudsmen by the statewide ~~waiver~~ **bureau of disabilities services**
 10 ombudsman.

11 SECTION 24. IC 12-11-13-3 IS AMENDED TO READ AS
 12 FOLLOWS [EFFECTIVE JULY 1, 2024]: Sec. 3. The statewide ~~waiver~~
 13 **bureau of disabilities services** ombudsman position is established
 14 within the division.

15 SECTION 25. IC 12-11-13-7 IS AMENDED TO READ AS
 16 FOLLOWS [EFFECTIVE JULY 1, 2024]: Sec. 7. (a) An ombudsman
 17 must be provided access to the following:

- 18 (1) An individual described in section 1 of this chapter.
- 19 (2) An entity that provides ~~waiver~~ services to an individual
 20 described in section 1 of this chapter.
- 21 (3) Records of an individual described in section 1 of this chapter,
 22 including records held by an entity that provides services to the
 23 individual.
- 24 (4) If an individual described in section 1 of this chapter is
 25 incapable of giving consent, as determined by the attending
 26 physician or as otherwise determined under state law, the name,
 27 address, and telephone number of the individual's legal
 28 representative.

29 Except as provided in subsections (c) and (d), the ombudsman must
 30 obtain consent under subsection (b) before having access to the records
 31 described in subdivision (3).

32 (b) Consent to have access to an individual's records shall be given
 33 in one (1) of the following forms:

- 34 (1) In writing by the individual.
- 35 (2) Orally by the individual in the presence of a witness.
- 36 (3) In writing by the legal representative of the individual if:
 37 (A) the individual is incapable of giving consent, as
 38 determined by the attending physician or as otherwise
 39 determined under state law; and
 40 (B) the legal representative has the authority to give consent.

41 (c) If consent to have access to an individual's records cannot be
 42 obtained under subsection (b), an ombudsman may inspect the records



1 of the individual if the individual is incapable of giving consent, as
 2 determined by the attending physician or as otherwise determined
 3 under state law, and:

- 4 (1) has no legal representative;
- 5 (2) has a legal representative but the legal representative cannot
 6 be contacted within three (3) days; or
- 7 (3) has a legal representative but the legal representative does not
 8 have the authority to give consent to have access to the records.

9 (d) If an ombudsman has:

- 10 (1) been denied access to an individual's records by the
 11 individual's legal representative;
 - 12 (2) reasonable cause to believe that the individual's legal
 13 representative is not acting in the best interests of the individual;
 14 and
 - 15 (3) received written approval from the state ombudsman;
- 16 the ombudsman may inspect the records of the individual.

17 SECTION 26. IC 12-11-13-8 IS AMENDED TO READ AS
 18 FOLLOWS [EFFECTIVE JULY 1, 2024]: Sec. 8. A provider of ~~waiver~~
 19 services or an employee of a provider of ~~waiver~~ services is immune
 20 from:

- 21 (1) civil or criminal liability; and
 - 22 (2) actions taken under a professional disciplinary procedure;
- 23 for the release or disclosure of records to the ombudsman under this
 24 chapter.

25 SECTION 27. IC 12-11-13-10, AS AMENDED BY P.L.99-2007,
 26 SECTION 86, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 27 JULY 1, 2024]: Sec. 10. The ombudsman shall do the following:

- 28 (1) Promote effective coordination among the following:
 - 29 (A) Programs that provide legal services for individuals with
 30 a ~~developmental~~ disability.
 - 31 (B) The division.
 - 32 (C) Providers of ~~waiver~~ services to individuals with
 33 developmental disabilities.
 - 34 (D) Providers of other necessary or appropriate services.
- 35 (2) Ensure that the identity of an individual described in section
 36 1 of this chapter will not be disclosed without:
 - 37 (A) the individual's written consent; or
 - 38 (B) a court order.

39 SECTION 28. IC 12-11-13-15 IS AMENDED TO READ AS
 40 FOLLOWS [EFFECTIVE JULY 1, 2024]: Sec. 15. The division shall:

- 41 (1) establish a statewide toll free telephone line continuously open
 42 to receive complaints regarding individuals described in section



1 1 of this chapter; and
 2 (2) forward all complaints received from the toll free telephone
 3 line to the ~~statewide waiver~~ ombudsman.

4 SECTION 29. IC 12-15-1-20.4, AS AMENDED BY P.L.57-2021,
 5 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 6 JULY 1, 2024]: Sec. 20.4. (a) If a Medicaid recipient is:

7 (1) adjudicated to be a delinquent child and placed in:

8 (A) a community based correctional facility for children;

9 (B) a juvenile detention facility; or

10 (C) a secure facility, not including a facility licensed as a child
 11 caring institution under IC 31-27; or

12 (2) incarcerated in a prison or jail; and

13 ineligible to participate in the Medicaid program during the placement
 14 described in subdivision (1) or (2) because of federal Medicaid law, the
 15 division of family resources, upon notice that a child has been
 16 adjudicated to be a delinquent child and placed in a facility described
 17 in subdivision (1) or upon notice that a person is incarcerated in a
 18 prison or jail and placed in a facility described in subdivision (2), shall
 19 suspend the person's participation in the Medicaid program.

20 (b) If the division of family resources receives:

21 (1) a dispositional decree under IC 31-37-19-28; or

22 (2) a modified disposition order under IC 31-37-22-9;

23 and the department of correction gives the division at least forty (40)
 24 days notice that a person will be released from a facility described in
 25 subsection ~~(a)(1)(C)~~ or (a)(2), the division of family resources shall
 26 take action necessary to ensure that a person described in subsection
 27 (a) is eligible to participate in the Medicaid program upon the person's
 28 release, if the person is eligible to participate.

29 (c) **A facility described in subsection (a)(1) shall provide the**
 30 **division of family resources:**

31 **(1) at least forty-five (45) days notice; or**

32 **(2) under extenuating circumstances approved by the division,**
 33 **notice as soon as possible;**

34 **that a delinquent child will be released from the facility. The**
 35 **division of family services shall take action necessary to ensure that**
 36 **the delinquent child, if eligible, participates in the Medicaid**
 37 **program upon the child's release and receives services required**
 38 **under federal law thirty (30) days before the child's release and**
 39 **thirty (30) days after the child's release.**

40 SECTION 30. IC 12-15-29-4.5, AS AMENDED BY P.L.265-2019,
 41 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 42 JULY 1, 2024]: Sec. 4.5. (a) An insurer shall accept a Medicaid claim



1 for a Medicaid recipient for three (3) years from the date the service
2 was provided.

3 (b) An insurer may not deny a Medicaid claim submitted by the
4 office solely on the basis of:

- 5 (1) the date of submission of the claim;
6 (2) the type or format of the claim form;
7 (3) the method of submission of the claim; or
8 (4) a failure to provide proper documentation at the point of sale
9 that is the basis of the claim;

10 if the claim is submitted by the office within three (3) years from the
11 date the service was provided as required in subsection (a) and the
12 office commences action to enforce the office's rights regarding the
13 claim within six (6) years of the office's submission of the claim.

14 (c) **This subsection does not apply to coverage under the**
15 **Medicare program, Medicare Advantage, or Medicare Part D.** An
16 insurer may not deny a Medicaid claim submitted by the office solely
17 due to a lack of prior authorization **in accordance with 42 U.S.C.**
18 **1396a(a)(25).** An insurer shall:

- 19 (1) after December 31, 2020, meet the requirements set forth in
20 IC 27-1-37.5;
21 (2) conduct the prior authorization on a retrospective basis for
22 claims where prior authorization is necessary; ~~and~~
23 (3) adjudicate any claim authorized in this manner as if the claim
24 received prior authorization; **and**
25 **(4) respond to a state inquiry regarding a claim under**
26 **subsection (a) not later than sixty (60) days after receiving the**
27 **inquiry.**

28 SECTION 31. IC 12-15-29-9, AS AMENDED BY P.L.187-2007,
29 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
30 JULY 1, 2024]: Sec. 9. (a) IC 27-8-23 applies to this section.

31 (b) To the extent that payment for covered medical expenses has
32 been made under the state Medicaid program for health care items or
33 services furnished to a person, in a case where a third party has a legal
34 liability to make payments, the state is considered to have acquired the
35 rights of the person to payment by any other party for ~~the accumulated~~
36 **and future** health care items or services.

37 (c) As required under 42 U.S.C. 1396a(a)(25), an insurer shall
38 accept the state's right of recovery and the assignment to the state of
39 any right of the individual or entity to payment for a health care item
40 or service for which payment has been made under the state Medicaid
41 plan.

42 SECTION 32. IC 16-39-2-6, AS AMENDED BY P.L.137-2021,



1 SECTION 27, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
2 JULY 1, 2024]: Sec. 6. (a) Without the consent of the patient, the
3 patient's mental health record may only be disclosed as follows:

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

5 (A) Are employed by:

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

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

8 or

9 (iii) a health care provider or mental health care provider, if
10 the mental health records are needed to provide health care
11 or mental health services to the patient.

12 (B) Are involved in the planning, provision, and monitoring of
13 services.

14 (2) To the extent necessary to obtain payment for services
15 rendered or other benefits to which the patient may be entitled, as
16 provided in IC 16-39-5-3.

17 (3) To the patient's court appointed counsel and to the Indiana
18 protection and advocacy services commission.

19 (4) For research conducted in accordance with IC 16-39-5-3 and
20 the rules of the division of mental health and addiction, the rules
21 of the division of disability and rehabilitative services, the rules
22 of the provider, or the rules of the Indiana archives and records
23 administration and the oversight committee on public records.

24 (5) To the division of mental health and addiction for the purpose
25 of data collection, research, and monitoring managed care
26 providers (as defined in IC 12-7-2-127) who are operating under
27 a contract with the division of mental health and addiction.

28 (6) To the extent necessary to make reports or give testimony
29 required by the statutes pertaining to admissions, transfers,
30 discharges, and guardianship proceedings.

31 (7) To a law enforcement agency if any of the following
32 conditions are met:

33 (A) A patient escapes from a facility to which the patient is
34 committed under IC 12-26.

35 (B) The superintendent of the facility determines that failure
36 to provide the information may result in bodily harm to the
37 patient or another individual.

38 (C) A patient commits or threatens to commit a crime on
39 facility premises or against facility personnel.

40 (D) A patient is in the custody of a law enforcement officer or
41 agency for any reason and:

42 (i) the information to be released is limited to medications



- 1 currently prescribed for the patient or to the patient's history
 2 of adverse medication reactions; and
 3 (ii) the provider determines that the release of the
 4 medication information will assist in protecting the health,
 5 safety, or welfare of the patient.
 6 Mental health records released under this clause must be
 7 maintained in confidence by the law enforcement agency
 8 receiving them.
- 9 (8) To a coroner or medical examiner, in the performance of the
 10 individual's duties.
- 11 (9) To a school in which the patient is enrolled if the
 12 superintendent of the facility determines that the information will
 13 assist the school in meeting educational needs of the patient.
- 14 (10) To the extent necessary to satisfy reporting requirements
 15 under the following statutes:
- 16 (A) IC 12-10-3-10.
 17 (B) IC 12-24-17-5.
 18 (C) IC 16-41-2-3.
 19 (D) IC 16-50-1-8.
 20 (E) IC 31-25-3-2.
 21 (F) IC 31-33-5-4.
 22 (G) IC 34-30-16-2.
 23 (H) IC 35-46-1-13.
- 24 (11) To the extent necessary to satisfy release of information
 25 requirements under the following statutes:
- 26 (A) IC 12-24-11-2.
 27 (B) IC 12-24-12-3, IC 12-24-12-4, and IC 12-24-12-6.
 28 (C) IC 12-26-11.
- 29 (12) To another health care provider in a health care emergency.
- 30 (13) For legitimate business purposes as described in
 31 IC 16-39-5-3.
- 32 (14) Under a court order under IC 16-39-3.
- 33 (15) With respect to records from a mental health or
 34 developmental disability facility, to the United States Secret
 35 Service if the following conditions are met:
- 36 (A) The request does not apply to alcohol or drug abuse
 37 records described in 42 U.S.C. 290dd-2 unless authorized by
 38 a court order under 42 U.S.C. 290dd-2(b)(2)(c).
 39 (B) The request relates to the United States Secret Service's
 40 protective responsibility and investigative authority under 18
 41 U.S.C. 3056, 18 U.S.C. 871, or 18 U.S.C. 879.
 42 (C) The request specifies an individual patient.



- 1 (D) The director or superintendent of the facility determines
 2 that disclosure of the mental health record may be necessary
 3 to protect a person under the protection of the United States
 4 Secret Service from serious bodily injury or death.
- 5 (E) The United States Secret Service agrees to only use the
 6 mental health record information for investigative purposes
 7 and not disclose the information publicly.
- 8 (F) The mental health record information disclosed to the
 9 United States Secret Service includes only:
- 10 (i) the patient's name, age, and address;
 11 (ii) the date of the patient's admission to or discharge from
 12 the facility; and
 13 (iii) any information that indicates whether or not the patient
 14 has a history of violence or presents a danger to the person
 15 under protection.
- 16 (16) To the statewide ~~waiver~~ **bureau of disabilities services**
 17 ombudsman established under IC 12-11-13, in the performance
 18 of the ombudsman's duties.
- 19 (b) If a licensed mental health professional, a licensed paramedic,
 20 a representative of a mobile integrated healthcare program (as
 21 described in IC 16-31-12), or a representative of a mental health
 22 community paramedicine program in the course of rendering a
 23 treatment intervention, determines that a patient may be a harm to
 24 himself or herself or others, the licensed mental health professional, the
 25 licensed paramedic, the representative of the mobile integrated
 26 healthcare program (as described in IC 16-31-12), or the representative
 27 of the mental health community paramedicine program may request a
 28 patient's individualized mental health safety plan from a psychiatric
 29 crisis center, psychiatric inpatient unit, or psychiatric residential
 30 treatment provider. Each psychiatric crisis center, psychiatric inpatient
 31 unit, and psychiatric residential treatment provider shall, upon request
 32 and without the consent of the patient, share a patient's individualized
 33 mental health safety plan that is in the standard format established by
 34 the division of mental health and addiction under IC 12-21-5-6 with the
 35 following individuals who demonstrate proof of licensure and commit
 36 to protecting the information in compliance with state and federal
 37 privacy laws:
- 38 (1) A licensed mental health professional.
 39 (2) A licensed paramedic.
 40 (3) A representative of a mobile integrated healthcare program (as
 41 described in IC 16-31-12).
 42 (4) A representative of a mental health community paramedicine



1 program.
 2 An individualized mental health safety plan disclosed under this
 3 subsection may be used only to support a patient's welfare and safety
 4 and is considered otherwise confidential information under applicable
 5 state and federal laws.

6 (c) After information is disclosed under subsection (a)(15) and if the
 7 patient is evaluated to be dangerous, the records shall be interpreted in
 8 consultation with a licensed mental health professional on the staff of
 9 the United States Secret Service.

10 (d) A person who discloses information under subsection (a)(7),
 11 (a)(15), or (b) in good faith is immune from civil and criminal liability.

12 SECTION 33. IC 31-37-19-29 IS ADDED TO THE INDIANA
 13 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
 14 [EFFECTIVE JULY 1, 2024]: **Sec. 29. (a) As used in this section,**
 15 **"facility" means the following:**

- 16 (1) **A community based correctional facility for children.**
 17 (2) **A juvenile detention facility.**
 18 (3) **A secure facility, not including a facility licensed as a child**
 19 **caring institution under IC 31-27.**

- 20 (b) **A facility shall provide the division of family resources:**
 21 (1) **at least forty-five (45) days notice; or**
 22 (2) **under extenuating circumstances approved by the division,**
 23 **notice as soon as possible;**

24 **that a delinquent child will be released from the facility. The**
 25 **division of family services shall take action necessary to ensure that**
 26 **the delinquent child, if eligible, participates in the Medicaid**
 27 **program upon the child's release and receives services required**
 28 **under federal law thirty (30) days before the child's release and**
 29 **thirty (30) days after the child's release.**

30 SECTION 34. IC 34-30-2.1-129.4 IS ADDED TO THE INDIANA
 31 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
 32 [EFFECTIVE JULY 1, 2024]: **Sec. 129.4. IC 12-8-1.7-8(b)**
 33 **(Concerning actions of a personal services attendant).**

34 SECTION 35. IC 34-30-2.1-137, AS ADDED BY P.L.105-2022,
 35 SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 36 JULY 1, 2024]: **Sec. 137. IC 12-11-13-8 (Concerning disclosure of**
 37 **records to the statewide waiver bureau of disabilities services**
 38 **ombudsman by providers of waiver services and employees of**
 39 **providers).**

40 SECTION 36. IC 34-30-2.1-138, AS ADDED BY P.L.105-2022,
 41 SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 42 JULY 1, 2024]: **Sec. 138. IC 12-11-13-12 (Concerning the statewide**



1 ~~waiver bureau of disabilities services~~ ombudsman).
2 SECTION 37. IC 35-52-12-2, AS ADDED BY P.L.169-2014,
3 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
4 JULY 1, 2024]: Sec. 2. IC 12-11-13-16 defines a crime concerning
5 statewide ~~waiver bureau of disabilities services~~ ombudsman.
6 SECTION 38. [EFFECTIVE JULY 1, 2024] **(a) An individual**
7 **who:**
8 **(1) is registered under IC 12-10-17.1, as amended by this act,**
9 **before July 1, 2024; and**
10 **(2) provides services under a home and community based**
11 **services waiver;**
12 **is deemed registered under IC 12-8-1.7, as added by this act.**
13 **(b) This SECTION expires July 1, 2026.**



COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Health, to which was referred House Bill 1386, 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 3, between lines 12 and 13, begin a new paragraph and insert:

"SECTION 2. IC 11-12-5-9, AS ADDED BY P.L.185-2015, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]: Sec. 9. (a) This section is effective beginning ~~September 1, 2015~~: **July 1, 2024.**

(b) For an offender who is incarcerated for less than thirty (30) days, a sheriff, in consultation with the county executive or a person designated by the county executive, may:

- (1) assist an offender in applying for Medicaid; and
- (2) act as the offender's Medicaid authorized representative as described in IC 11-10-3-7;

so that the offender might be eligible for coverage when the offender is subsequently released from the county jail.

(c) Before discharge or release from a county jail **or juvenile facility described in IC 12-15-1-20.4** of an offender incarcerated for at least thirty (30) days, the sheriff, in consultation with the county executive or a person designated by the county executive in the county in which the incarcerated person is located shall assist the offender in applying for Medicaid, if eligible, as the authorized representative as described in IC 11-10-3-7 or as a health navigator under the requirements of IC 27-19-2-12, so that the offender might be eligible for coverage when the offender is subsequently released from the county jail **or juvenile facility.**

(d) The sheriff shall provide the assistance described in subsection (c) in sufficient time to ensure that the offender will be able to receive coverage at the time the offender is released from the county jail **or juvenile facility.**

(e) A county executive may contract with any entity that complies with IC 27-19-2-12, including a hospital or outreach eligibility worker, to assist with Medicaid applications under this section. A county executive may develop intergovernmental agreements with other counties to provide both authorized representative and health navigator services required under this section. Upon a determination that an incarcerated individual qualifies for Medicaid coverage, the office of the secretary of family and social services, division of family resources, shall authorize and then immediately suspend Medicaid coverage for



those inmates not requiring immediate medical attention."

Page 3, between lines 33 and 34, begin a new paragraph and insert:

"SECTION 1. IC 12-7-2-135.3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]: Sec. 135.3. (a) "Ombudsman", for purposes of IC 12-10-13, has the meaning set forth in IC 12-10-13-4.5.

(b) "Ombudsman", for purposes of IC 12-11-13, has the meaning set forth in IC 12-11-13-2.

SECTION 1. IC 12-7-2-149.1, AS AMENDED BY P.L.10-2019, SECTION 55, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]: Sec. 149.1. "Provider" means the following:

(1) For purposes of IC 12-10-7, the meaning set forth in IC 12-10-7-3.

(2) For purposes of the following statutes, an individual, a partnership, a corporation, or a governmental entity that is enrolled in the Medicaid program under rules adopted under IC 4-22-2 by the office of Medicaid policy and planning:

(A) IC 12-14-1 through IC 12-14-8.

(B) IC 12-15, except IC 12-15-32, IC 12-15-33, and IC 12-15-34.

(C) IC 12-17.6.

(3) Except as provided in subdivisions (4) and (6), for purposes of IC 12-17.2, a person who operates a child care center or child care home under IC 12-17.2.

(4) For purposes of IC 12-17.2-3.5, a person that:

(A) provides child care; and

(B) is directly paid for the provision of the child care under the federal Child Care and Development Fund voucher program administered under 45 CFR 98 and 45 CFR 99.

The term does not include an individual who provides services to a person described in clauses (A) and (B), regardless of whether the individual receives compensation.

(5) For purposes of IC 12-21-1 through IC 12-29-2, an organization:

(A) that:

(i) provides mental health services, as defined under 42 U.S.C. 300x-2(c);

(ii) provides addiction services; or

(iii) provides children's mental health services;

(B) that has entered into a provider agreement with the division of mental health and addiction under IC 12-21-2-7 to provide services in the least restrictive, most appropriate



setting; and

(C) that is operated by one (1) of the following:

- (i) A city, town, county, or other political subdivision of the state.
- (ii) An agency of the state or of the United States.
- (iii) A political subdivision of another state.
- (iv) A hospital owned or operated by a unit of government or a building authority that is organized for the purpose of constructing facilities to be leased to units of government.
- (v) A corporation incorporated under IC 23-7-1.1 (before its repeal August 1, 1991) or IC 23-17.
- (vi) An organization that is exempt from federal income taxation under Section 501(c)(3) of the Internal Revenue Code.
- (vii) A university or college.

(6) For purposes of IC 12-17.2-2-10, the following:

- (A) A person described in subdivision (4).
- (B) A child care center licensed under IC 12-17.2-4.
- (C) A child care home licensed under IC 12-17.2-5.

(7) For purposes of IC 12-11-13, an authorized provider entity that delivers services administered by the bureau of disabilities services."

Page 5, line 9, delete "and" and insert "or".

Page 5, line 15, delete "subdivision 7(B)" and insert "**subdivision (7)**".

Page 6, line 33, delete "determined" and insert "**included in the individual's home and community based service plan:**".

Page 6, delete line 34.

Page 17, between lines 20 and 21, begin a new paragraph and insert:

"SECTION 1. IC 12-11-13-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]: Sec. 1. **(a) Except as provided in subsection (b)**, this chapter applies only to an individual who:

- (1) has a developmental disability; and
- (2) receives services ~~under a waiver under the federal home and community based services program~~ **administered by the bureau.**

(b) This chapter does not apply to an individual served by the long term care ombudsman program established under IC 12-10-13.

SECTION 2. IC 12-11-13-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]: Sec. 2. As used in this



chapter, "ombudsman" refers to the statewide ~~waiver~~ **bureau of disabilities services** ombudsman established by section 3 of this chapter. The term includes individuals approved to act in the capacity of ombudsmen by the statewide ~~waiver~~ **bureau of disabilities services** ombudsman.

SECTION 3. IC 12-11-13-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]: Sec. 3. The statewide ~~waiver~~ **bureau of disabilities services** ombudsman position is established within the division.

SECTION 4. IC 12-11-13-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]: Sec. 7. (a) An ombudsman must be provided access to the following:

- (1) An individual described in section 1 of this chapter.
- (2) An entity that provides ~~waiver~~ services to an individual described in section 1 of this chapter.
- (3) Records of an individual described in section 1 of this chapter, including records held by an entity that provides services to the individual.
- (4) If an individual described in section 1 of this chapter is incapable of giving consent, as determined by the attending physician or as otherwise determined under state law, the name, address, and telephone number of the individual's legal representative.

Except as provided in subsections (c) and (d), the ombudsman must obtain consent under subsection (b) before having access to the records described in subdivision (3).

(b) Consent to have access to an individual's records shall be given in one (1) of the following forms:

- (1) In writing by the individual.
- (2) Orally by the individual in the presence of a witness.
- (3) In writing by the legal representative of the individual if:
 - (A) the individual is incapable of giving consent, as determined by the attending physician or as otherwise determined under state law; and
 - (B) the legal representative has the authority to give consent.

(c) If consent to have access to an individual's records cannot be obtained under subsection (b), an ombudsman may inspect the records of the individual if the individual is incapable of giving consent, as determined by the attending physician or as otherwise determined under state law, and:

- (1) has no legal representative;
- (2) has a legal representative but the legal representative cannot



be contacted within three (3) days; or

(3) has a legal representative but the legal representative does not have the authority to give consent to have access to the records.

(d) If an ombudsman has:

(1) been denied access to an individual's records by the individual's legal representative;

(2) reasonable cause to believe that the individual's legal representative is not acting in the best interests of the individual; and

(3) received written approval from the state ombudsman;

the ombudsman may inspect the records of the individual.

SECTION 5. IC 12-11-13-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]: Sec. 8. A provider of ~~waiver~~ services or an employee of a provider of ~~waiver~~ services is immune from:

(1) civil or criminal liability; and

(2) actions taken under a professional disciplinary procedure;

for the release or disclosure of records to the ombudsman under this chapter.

SECTION 6. IC 12-11-13-10, AS AMENDED BY P.L.99-2007, SECTION 86, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]: Sec. 10. The ombudsman shall do the following:

(1) Promote effective coordination among the following:

(A) Programs that provide legal services for individuals with a ~~developmental~~ disability.

(B) The division.

(C) Providers of ~~waiver~~ services to individuals with developmental disabilities.

(D) Providers of other necessary or appropriate services.

(2) Ensure that the identity of an individual described in section 1 of this chapter will not be disclosed without:

(A) the individual's written consent; or

(B) a court order.

SECTION 7. IC 12-11-13-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]: Sec. 15. The division shall:

(1) establish a statewide toll free telephone line continuously open to receive complaints regarding individuals described in section 1 of this chapter; and

(2) forward all complaints received from the toll free telephone line to the ~~statewide waiver~~ ombudsman."

Page 19, between lines 16 and 17, begin a new paragraph and insert: "SECTION 8. IC 16-39-2-6, AS AMENDED BY P.L.137-2021,



SECTION 27, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]: Sec. 6. (a) Without the consent of the patient, the patient's mental health record may only be disclosed as follows:

- (1) To individuals who meet the following conditions:
 - (A) Are employed by:
 - (i) the provider at the same facility or agency;
 - (ii) a managed care provider (as defined in IC 12-7-2-127);
 - or
 - (iii) a health care provider or mental health care provider, if the mental health records are needed to provide health care or mental health services to the patient.
 - (B) Are involved in the planning, provision, and monitoring of services.
- (2) To the extent necessary to obtain payment for services rendered or other benefits to which the patient may be entitled, as provided in IC 16-39-5-3.
- (3) To the patient's court appointed counsel and to the Indiana protection and advocacy services commission.
- (4) For research conducted in accordance with IC 16-39-5-3 and the rules of the division of mental health and addiction, the rules of the division of disability and rehabilitative services, the rules of the provider, or the rules of the Indiana archives and records administration and the oversight committee on public records.
- (5) To the division of mental health and addiction for the purpose of data collection, research, and monitoring managed care providers (as defined in IC 12-7-2-127) who are operating under a contract with the division of mental health and addiction.
- (6) To the extent necessary to make reports or give testimony required by the statutes pertaining to admissions, transfers, discharges, and guardianship proceedings.
- (7) To a law enforcement agency if any of the following conditions are met:
 - (A) A patient escapes from a facility to which the patient is committed under IC 12-26.
 - (B) The superintendent of the facility determines that failure to provide the information may result in bodily harm to the patient or another individual.
 - (C) A patient commits or threatens to commit a crime on facility premises or against facility personnel.
 - (D) A patient is in the custody of a law enforcement officer or agency for any reason and:
 - (i) the information to be released is limited to medications



currently prescribed for the patient or to the patient's history of adverse medication reactions; and

(ii) the provider determines that the release of the medication information will assist in protecting the health, safety, or welfare of the patient.

Mental health records released under this clause must be maintained in confidence by the law enforcement agency receiving them.

(8) To a coroner or medical examiner, in the performance of the individual's duties.

(9) To a school in which the patient is enrolled if the superintendent of the facility determines that the information will assist the school in meeting educational needs of the patient.

(10) To the extent necessary to satisfy reporting requirements under the following statutes:

(A) IC 12-10-3-10.

(B) IC 12-24-17-5.

(C) IC 16-41-2-3.

(D) IC 16-50-1-8.

(E) IC 31-25-3-2.

(F) IC 31-33-5-4.

(G) IC 34-30-16-2.

(H) IC 35-46-1-13.

(11) To the extent necessary to satisfy release of information requirements under the following statutes:

(A) IC 12-24-11-2.

(B) IC 12-24-12-3, IC 12-24-12-4, and IC 12-24-12-6.

(C) IC 12-26-11.

(12) To another health care provider in a health care emergency.

(13) For legitimate business purposes as described in IC 16-39-5-3.

(14) Under a court order under IC 16-39-3.

(15) With respect to records from a mental health or developmental disability facility, to the United States Secret Service if the following conditions are met:

(A) The request does not apply to alcohol or drug abuse records described in 42 U.S.C. 290dd-2 unless authorized by a court order under 42 U.S.C. 290dd-2(b)(2)(c).

(B) The request relates to the United States Secret Service's protective responsibility and investigative authority under 18 U.S.C. 3056, 18 U.S.C. 871, or 18 U.S.C. 879.

(C) The request specifies an individual patient.



(D) The director or superintendent of the facility determines that disclosure of the mental health record may be necessary to protect a person under the protection of the United States Secret Service from serious bodily injury or death.

(E) The United States Secret Service agrees to only use the mental health record information for investigative purposes and not disclose the information publicly.

(F) The mental health record information disclosed to the United States Secret Service includes only:

- (i) the patient's name, age, and address;
- (ii) the date of the patient's admission to or discharge from the facility; and
- (iii) any information that indicates whether or not the patient has a history of violence or presents a danger to the person under protection.

(16) To the statewide ~~waiver~~ **bureau of disabilities services** ombudsman established under IC 12-11-13, in the performance of the ombudsman's duties.

(b) If a licensed mental health professional, a licensed paramedic, a representative of a mobile integrated healthcare program (as described in IC 16-31-12), or a representative of a mental health community paramedicine program in the course of rendering a treatment intervention, determines that a patient may be a harm to himself or herself or others, the licensed mental health professional, the licensed paramedic, the representative of the mobile integrated healthcare program (as described in IC 16-31-12), or the representative of the mental health community paramedicine program may request a patient's individualized mental health safety plan from a psychiatric crisis center, psychiatric inpatient unit, or psychiatric residential treatment provider. Each psychiatric crisis center, psychiatric inpatient unit, and psychiatric residential treatment provider shall, upon request and without the consent of the patient, share a patient's individualized mental health safety plan that is in the standard format established by the division of mental health and addiction under IC 12-21-5-6 with the following individuals who demonstrate proof of licensure and commit to protecting the information in compliance with state and federal privacy laws:

- (1) A licensed mental health professional.
- (2) A licensed paramedic.
- (3) A representative of a mobile integrated healthcare program (as described in IC 16-31-12).
- (4) A representative of a mental health community paramedicine



program.

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

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

(d) A person who discloses information under subsection (a)(7), (a)(15), or (b) in good faith is immune from civil and criminal liability."

Page 19, between lines 38 and 39, begin a new paragraph and insert:

"SECTION 9. IC 34-30-2.1-137, AS ADDED BY P.L.105-2022, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]: Sec. 137. IC 12-11-13-8 (Concerning disclosure of records to the statewide ~~waiver~~ **bureau of disabilities services** ombudsman by providers of ~~waiver~~ services and employees of providers).

SECTION 10. IC 34-30-2.1-138, AS ADDED BY P.L.105-2022, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]: Sec. 138. IC 12-11-13-12 (Concerning the statewide ~~waiver~~ **bureau of disabilities services** ombudsman).

SECTION 11. IC 35-52-12-2, AS ADDED BY P.L.169-2014, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]: Sec. 2. IC 12-11-13-16 defines a crime concerning statewide ~~waiver~~ **bureau of disabilities services** ombudsman."

Renumbers all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1386 as introduced.)

BARRETT

Committee Vote: yeas 10, nays 0.

