



January 13, 2022

HOUSE BILL No. 1222

DIGEST OF HB 1222 (Updated January 13, 2022 10:56 am - DI 119)

Citations Affected: IC 12-7; IC 12-9; IC 12-11; IC 12-12.5; IC 12-13; IC 12-17.2; IC 12-21; IC 35-36.

Synopsis: Various FSSA matters. Allows the family and social services administration to deny or revoke licensing for a child care home based on a household member's conviction for certain specified criminal offenses. Removes a limitation specifying that an occupancy provision regarding school-age children in class I child care homes applies only during the school year. Eliminates the bureau of quality improvement services and reassigns the bureau's responsibilities to the bureau of developmental disabilities services. Renames the bureau of child care as the office of early childhood and out of school learning. Amends the required composition of mobile crisis teams that provide behavioral health services in conjunction with the 9-8-8 suicide prevention hotline. Provides that a contract entered into with a third party by the division of mental health and addiction (division) for provision of competency restoration services to a defendant may confer to the third party all authority the division would have in providing the services to the defendant at a state psychiatric institution. Makes conforming amendments.

Effective: July 1, 2022.

Ziemke, DeVon, Olthoff, Jackson

January 6, 2022, read first time and referred to Committee on Family, Children and Human Affairs.

January 13, 2022, amended, reported — Do Pass.

HB 1222—LS 7185/DI 148



January 13, 2022

Second Regular Session of the 122nd General Assembly (2022)

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 2021 Regular Session of the General Assembly.

HOUSE BILL No. 1222

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 12-7-2-24, AS AMENDED BY P.L.1-2007,
2 SECTION 104, IS AMENDED TO READ AS FOLLOWS
3 [EFFECTIVE JULY 1, 2022]: Sec. 24. "Bureau" means the following:
4 (1) For purposes of IC 12-10, the bureau of aging and in-home
5 services established by IC 12-10-1-1.
6 (2) For purposes of IC 12-11, the bureau of developmental
7 disabilities services established by IC 12-11-1.1-1.
8 (3) For purposes of IC 12-12, the rehabilitation services bureau of
9 the division of disability and rehabilitative services established by
10 IC 12-12-1-1.
11 ~~(4) For purposes of IC 12-12.5, the bureau of quality~~
12 ~~improvement services established by IC 12-12.5-1-1.~~
13 SECTION 2. IC 12-7-2-33.7, AS AMENDED BY P.L.197-2011,
14 SECTION 38, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
15 JULY 1, 2022]: Sec. 33.7. (a) As used in this chapter, "class I child
16 care home" means a child care home that serves any combination of
17 full-time and part-time children, not to exceed at any one (1) time

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1 twelve (12) children plus three (3) children during the school year only
 2 who are enrolled in at least full-day kindergarten. Except as provided
 3 in ~~IC 12-17.2-5-6.3(b)~~, the addition of three (3) school age children
 4 may not occur during a break in the school year that exceeds four (4)
 5 weeks.

6 (b) A child:

7 (1) for whom a provider of care in the child care home is a parent,
 8 stepparent, guardian, custodian, or other relative and who is at
 9 least seven (7) years of age; or

10 (2) who is at least fourteen (14) years of age and does not require
 11 child care;

12 shall not be counted in determining whether the child care home is
 13 within the limit set forth in subsection (a).

14 SECTION 3. IC 12-7-2-69, AS AMENDED BY P.L.85-2017,
 15 SECTION 47, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 16 JULY 1, 2022]: Sec. 69. (a) "Division", except as provided in
 17 subsections (b) and (c), refers to any of the following:

18 (1) The division of disability and rehabilitative services
 19 established by IC 12-9-1-1.

20 (2) The division of aging established by IC 12-9.1-1-1.

21 (3) The division of family resources established by IC 12-13-1-1.

22 (4) The division of mental health and addiction established by
 23 IC 12-21-1-1.

24 (b) The term refers to the following:

25 (1) For purposes of the following statutes, the division of
 26 disability and rehabilitative services established by IC 12-9-1-1:

27 (A) IC 12-9.

28 (B) IC 12-11.

29 (C) IC 12-12.

30 ~~(D) IC 12-12.5.~~

31 ~~(E) (D)~~ (D) IC 12-12.7.

32 ~~(F) (E)~~ (E) IC 12-28-5.

33 (2) For purposes of the following statutes, the division of aging
 34 established by IC 12-9.1-1-1:

35 (A) IC 12-9.1.

36 (B) IC 12-10.

37 (C) IC 12-10.5.

38 (3) For purposes of the following statutes, the division of family
 39 resources established by IC 12-13-1-1:

40 (A) IC 12-13.

41 (B) IC 12-14.

42 (C) IC 12-15.



- 1 (D) IC 12-16.
 2 (E) IC 12-17.2.
 3 (F) IC 12-18.
 4 (G) IC 12-19.
 5 (H) IC 12-20.
 6 (4) For purposes of the following statutes, the division of mental
 7 health and addiction established by IC 12-21-1-1:
 8 (A) IC 12-21.
 9 (B) IC 12-22.
 10 (C) IC 12-23.
 11 (D) IC 12-25.
 12 (c) With respect to a particular state institution, the term refers to
 13 the division whose director has administrative control of and
 14 responsibility for the state institution.
 15 (d) For purposes of IC 12-24, IC 12-26, and IC 12-27, the term
 16 refers to the division whose director has administrative control of and
 17 responsibility for the appropriate state institution.
 18 SECTION 4. IC 12-9-1-3, AS AMENDED BY P.L.210-2015,
 19 SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 20 JULY 1, 2022]: Sec. 3. The division consists of the following bureaus:
 21 (1) The rehabilitation services bureau established by
 22 IC 12-12-1-1.
 23 (2) The bureau of developmental disabilities services established
 24 by IC 12-11-1.1-1.
 25 ~~(3) The bureau of quality improvement services established by~~
 26 ~~IC 12-12.5-1-1.~~
 27 ~~(4)~~ **(3)** The bureau of child development services established by
 28 IC 12-12.7-1-1.
 29 SECTION 5. IC 12-9-5-3, AS AMENDED BY P.L.1-2007,
 30 SECTION 116, IS AMENDED TO READ AS FOLLOWS
 31 [EFFECTIVE JULY 1, 2022]: Sec. 3. The division shall administer the
 32 following programs:
 33 (1) Programs established under any of the following statutes:
 34 (A) This article.
 35 (B) IC 12-11.
 36 (C) IC 12-12.
 37 ~~(D) IC 12-12.5.~~
 38 ~~(E)~~ **(D)** IC 12-12.7.
 39 (2) Programs under the following statutes, to the extent the
 40 division has responsibilities for programs under those statutes:
 41 (A) IC 12-24.
 42 (B) IC 12-26.



- 1 (C) IC 12-27.
 2 (D) IC 12-28.
 3 (E) IC 12-29.
 4 (3) Supported employment for a person with developmental
 5 disabilities.
 6 (4) Epilepsy service centers program.
 7 (5) Epilepsy clinic program.
 8 (6) Medicaid waivers for in-home services for treatment of
 9 developmental disabilities.
- 10 SECTION 6. IC 12-11-1.1-1, AS AMENDED BY P.L.210-2015,
 11 SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 12 JULY 1, 2022]: Sec. 1. (a) The bureau of developmental disabilities
 13 services is established within the division.
- 14 (b) The bureau shall plan, coordinate, and administer the provision
 15 of individualized, integrated community based services for individuals
 16 with a developmental disability and their families, within the limits of
 17 available resources. The planning and delivery of services must be
 18 based on future plans of the individual with a developmental disability
 19 rather than on traditional determinations of eligibility for discrete
 20 services, with an emphasis on the preferences of the individual with a
 21 developmental disability and that individual's family.
- 22 (c) Services for individuals with a developmental disability must be
 23 services that meet the following conditions:
 24 (1) Are provided under public supervision.
 25 (2) Are designed to meet the developmental needs of individuals
 26 with a developmental disability.
 27 (3) Meet all required state and federal standards.
 28 (4) Are provided by qualified personnel.
 29 (5) To the extent appropriate, are provided in home and
 30 community based settings in which individuals without
 31 disabilities participate.
 32 (6) Are provided in conformity with a service plan developed
 33 under IC 12-11-2.1-2.
- 34 (d) The bureau shall approve entities to provide community based
 35 services and supports as follows:
 36 (1) Beginning July 1, 2011, the bureau shall ensure that an entity
 37 approved to provide day services, identified day habilitation,
 38 including facility based or community based habilitation,
 39 prevocational services, or employment services under home and
 40 community based services waivers is accredited by an approved
 41 national accrediting body described in subsection (j).
 42 (2) Beginning July 1, 2012, the bureau shall ensure that an entity



1 approved to provide residential habilitation and support services
 2 under home and community based services waivers is accredited
 3 by an approved national accrediting body. However, if an entity
 4 is accredited to provide home and community based services
 5 under subdivision (1) other than residential habilitation and
 6 support services, the bureau may extend the time that the entity
 7 has to comply with this subdivision until the earlier of the
 8 following:

9 (A) The completion of the entity's next scheduled accreditation
 10 survey.

11 (B) July 1, 2015.

12 (e) Subject to subsection (k), the bureau shall initially approve,
 13 reapprove, and monitor community based residential, habilitation, and
 14 employment service providers that provide alternatives to placement of
 15 individuals with a developmental disability in state institutions and
 16 health facilities licensed under IC 16-28 for individuals with a
 17 developmental disability. The services must simulate, to the extent
 18 feasible, patterns and conditions of everyday life that are as close as
 19 possible to the conditions in which individuals without disabilities
 20 participate. The community based service categories include the
 21 following:

22 (1) Supervised group living programs, which serve at least four
 23 (4) individuals and not more than eight (8) individuals, are funded
 24 by Medicaid, and are licensed by the division.

25 (2) Supported living service arrangements to meet the unique
 26 needs of individuals in integrated settings. Supported living
 27 service arrangements providing residential services may not serve
 28 more than four (4) unrelated individuals in any one (1) setting.

29 However, a program that:

30 (A) is in existence on January 1, 2013, as a supervised group
 31 living program described in subdivision (1); and

32 (B) has more than four (4) individuals residing as part of the
 33 program;

34 may convert to a supported living service arrangement under this
 35 subdivision and continue to provide services to up to the same
 36 number of individuals in the supported living setting.

37 (f) To the extent that services described in subsection (e) are
 38 available and meet the individual's needs, an individual is entitled to
 39 receive services in the least restrictive environment possible.

40 (g) Community based services under subsection (e)(1) or (e)(2)
 41 must consider the needs of and provide choices and options for:

42 (1) individuals with a developmental disability; and



- 1 (2) families of individuals with a developmental disability.
 2 (h) The bureau shall administer a system of service coordination to
 3 carry out this chapter.
 4 (i) The bureau may issue orders under IC 4-21.5-3-6 against a
 5 provider that violates rules issued by the bureau for programs in which
 6 the provider is providing services in accordance with section 11 of this
 7 chapter.
 8 (j) For purposes of subsections (d) and (k), "approved national
 9 accrediting body" means any of the following:
 10 (1) The Commission on Accreditation of Rehabilitation Facilities
 11 (CARF), or its successor.
 12 (2) The Council on Quality and Leadership In Supports for People
 13 with Disabilities, or its successor.
 14 (3) The Joint Commission on Accreditation of Healthcare
 15 Organizations (JCAHO), or its successor.
 16 (4) The ISO-9001 human services QA system.
 17 (5) The Council on Accreditation, or its successor.
 18 (6) An independent national accreditation organization approved
 19 by the secretary.
 20 (k) An entity that is accredited by an approved national accrediting
 21 body is not subject to reapproval surveys or routine monitoring surveys
 22 by the division ~~or bureau, or bureau of quality improvement services,~~
 23 including any reapproval survey under a home and community based
 24 services waiver. However, the bureau may perform validation surveys
 25 and complaint investigations of an entity accredited by an approved
 26 national accrediting body.
 27 **(l) The bureau shall monitor services provided by the following:**
 28 **(1) An entity that provides services to an individual with funds**
 29 **provided by the bureau or under the authority of the bureau.**
 30 **(2) An entity that has entered into a provider agreement**
 31 **under IC 12-15-11 to provide Medicaid in-home waiver**
 32 **services.**
 33 **(m) The bureau shall establish and administer a complaint**
 34 **process for the following:**
 35 **(1) An individual who receives services from an entity with**
 36 **funds provided through the bureau or under the authority of**
 37 **the bureau.**
 38 **(2) An entity that has entered into a provider agreement**
 39 **under IC 12-15-11 to provide Medicaid in-home waiver**
 40 **services.**
 41 SECTION 7. IC 12-12.5 IS REPEALED [EFFECTIVE JULY 1,
 42 2022]. (QUALITY IMPROVEMENT SERVICES).



1 SECTION 8. IC 12-13-6-1, AS AMENDED BY P.L.210-2015,
 2 SECTION 33, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 3 JULY 1, 2022]: Sec. 1. The following bureaus are established within
 4 the division:

5 (1) ~~A bureau of child care.~~ **An office of early childhood and out**
 6 **of school learning.**

7 (2) A bureau of economic independence.

8 SECTION 9. IC 12-17.2-5-4, AS AMENDED BY P.L.156-2020,
 9 SECTION 59, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 10 JULY 1, 2022]: Sec. 4. (a) The following constitute sufficient grounds
 11 for a denial of a license application:

12 (1) A determination by the department of child services
 13 established by IC 31-25-1-1 of child abuse or neglect (as defined
 14 in IC 31-9-2-14) by:

15 (A) the applicant;

16 (B) a member of the applicant's household;

17 (C) an employee of the applicant who may be present on the
 18 premises of the child care home during operating hours of the
 19 child care home; or

20 (D) a volunteer of the applicant who may be present on the
 21 premises of the child care home during operating hours of the
 22 child care home.

23 (2) A criminal conviction of the applicant, or an employee or
 24 volunteer of the applicant who may be present on the premises of
 25 the child care home during operating hours of the child care
 26 home, **or a member of the applicant's household**, of any of the
 27 following:

28 (A) A felony:

29 (i) related to the health or safety of a child;

30 (ii) that is a sex offense (as defined in IC 11-8-8-5.2);

31 (iii) that is a dangerous felony; or

32 (iv) that is not a felony otherwise described in items (i)
 33 through (iii), and less than ten (10) years have elapsed from
 34 the date the person was discharged from probation,
 35 imprisonment, or parole, whichever discharge date is latest.

36 (B) A misdemeanor related to the health or safety of a child.

37 (C) A misdemeanor for operating a child care center without
 38 a license under IC 12-17.2-4-35, or a substantially similar
 39 offense committed in another jurisdiction if the offense is
 40 directly or indirectly related to jeopardizing the health or
 41 safety of a child.

42 (D) A misdemeanor for operating a child care home without a



- 1 license under section 35 of this chapter, or a substantially
 2 similar offense committed in another jurisdiction if the offense
 3 is directly or indirectly related to jeopardizing the health or
 4 safety of a child.
- 5 (3) A determination by the division that the applicant made false
 6 statements in the applicant's application for licensure.
- 7 (4) A determination by the division that the applicant made false
 8 statements in the records required by the division.
- 9 (5) A determination by the division that the applicant previously
 10 operated a:
- 11 (A) child care center without a license under IC 12-17.2-4; or
 12 (B) child care home without a license under this chapter.
- 13 (b) Notwithstanding subsection (a)(2), if:
- 14 (1) a license application is denied due to a criminal conviction of:
- 15 (A) an employee or a volunteer of the applicant; or
 16 (B) a member of the applicant's household; and
- 17 (2) the division determines that the:
- 18 (A) employee or volunteer has been dismissed by the
 19 applicant; or
 20 (B) member of the applicant's household is no longer a
 21 member of the applicant's household;
- 22 the criminal conviction of the former employee, former volunteer, or
 23 former member does not require denial of a license application.
- 24 SECTION 10. IC 12-17.2-5-6.3, AS AMENDED BY P.L.162-2005,
 25 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 26 JULY 1, 2022]: Sec. 6.3. (a) To qualify for a license to operate a class
 27 I child care home under this chapter, a person must do the following:
- 28 (1) Provide documentation to the division that the licensee has
 29 received a high school diploma or a high school equivalency
 30 certificate as described in IC 12-14-5-2.
- 31 (2) Provide documentation to the division that the licensee:
- 32 (A) has completed;
 33 (B) is enrolled in; or
 34 (C) agrees to complete within the next three (3) years;
 35 a child development associate credential program or a similar
 36 program approved by the division.
- 37 (3) Complete the training course taught or approved by the
 38 division concerning safe sleeping practices for a child within the
 39 person's care as described in IC 12-17.2-2-1(10).
- 40 The division may grant a waiver or variance of the requirement under
 41 subdivision (2).
- 42 (b) A class I child care home may serve a **three (3)** school age ~~child~~



1 during a break in the school year that exceeds four (4) weeks **children**
 2 **under IC 12-7-2-33.7** if the **child care home meets the** following
 3 conditions: are met:

4 (1) The school age child:

5 (A) was in the home part time during the four (4) months
 6 preceding the break; or

7 (B) has a sibling attending the child care home.

8 (2) The child care home meets the following requirements:

9 (A) (1) Provides at least thirty-five (35) square feet for each child.

10 (B) (2) Maintains the child to staff ratio required under rules
 11 adopted by the division for each age group of children in
 12 attendance.

13 (C) Provides age appropriate toys, games, equipment, and
 14 activities for each age group of children enrolled.

15 (D) If the licensee does not reside in the child care home, the
 16 child care home has:

17 (i) at least two (2) exits that comply with the exit
 18 requirements for an E-3 building occupancy classification
 19 under the Indiana building code adopted by the fire
 20 prevention and building safety commission; and

21 (ii) (3) Has an illuminated exit sign over each required exit or
 22 emergency lighting for each required exit.

23 (3) The licensee for the child care home has maintained a class I
 24 child care home license for at least twelve (12) children:

25 (A) for at least one (1) year; and

26 (B) without any citations for noncompliance.

27 SECTION 11. IC 12-17.2-5-6.5, AS AMENDED BY P.L.145-2006,
 28 SECTION 101, IS AMENDED TO READ AS FOLLOWS
 29 [EFFECTIVE JULY 1, 2022]: Sec. 6.5. (a) To qualify for a license to
 30 operate a class II child care home under this chapter, a person must do
 31 the following:

32 (1) Provide all child care services on the first story of the child
 33 care home unless the class II child care home meets the
 34 exceptions to the first story requirements contained in the Indiana
 35 building code adopted by the fire prevention and building safety
 36 commission in effect at the time the class II child care home
 37 provider applies for licensure.

38 (2) Provide a smoke detection system that is:

39 (A) hard wired to the building's electrical system; and

40 (B) wired in a manner that activates all of the detector devices
 41 in the building when one (1) detector device is activated.

42 (3) Provide a fire extinguisher in each room that is used to



1 provide child care services.

2 (4) Meet:

3 (A) the exit requirements for an E-3 building occupancy
4 classification under the Indiana building code adopted by the
5 fire prevention and building safety commission, except for any
6 illumination requirements, in effect at the time the class II
7 child care home provider initially applies for licensure; and

8 (B) the illumination requirements established in section
9 ~~6.3(b)(2)(D)~~ **6.3(b)(3)** of this chapter.

10 (5) Provide a minimum of thirty-five (35) square feet for each
11 child.

12 (6) Conduct fire drills required under article 37 of the Indiana fire
13 prevention code adopted by the fire prevention and building
14 safety commission in effect at the time the class II child care
15 home provider applies for licensure.

16 (7) Apply for a license before July 1, 1996, or after June 30, 2001.

17 (8) Comply with rules adopted by the division of family resources
18 for class II child care homes.

19 (9) Complete the training course taught or approved by the
20 division concerning safe sleeping practices for a child within the
21 person's care as described in IC 12-17.2-2-1(10).

22 (b) To qualify for a license to operate a class II child care home
23 under this chapter, a person, before applying for the license, must have:

24 (1) a class I child care home license; or

25 (2) at least one (1) year of experience as a caregiver in a child
26 care home or child care center.

27 SECTION 12. IC 12-17.2-5-32, AS AMENDED BY P.L.121-2020,
28 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
29 JULY 1, 2022]: Sec. 32. (a) The following constitute sufficient grounds
30 for revocation of a license:

31 (1) A determination by the department of child services of child
32 abuse or neglect (as defined in IC 31-9-2-14) by:

33 (A) the licensee;

34 (B) a member of the licensee's household;

35 (C) an employee of the licensee who may be present on the
36 premises of the child care home during operating hours of the
37 child care home; or

38 (D) a volunteer of the licensee who may be present on the
39 premises of the child care home during operating hours of the
40 child care home.

41 (2) A criminal conviction of the licensee, ~~or~~ an employee or
42 volunteer of the licensee who may be present on the premises of



1 the child care home during operating hours of the child care
 2 home, **or a member of the licensee's household** of any of the
 3 following:

4 (A) A felony:

- 5 (i) related to the health or safety of a child;
- 6 (ii) that is a sex offense (as defined in IC 11-8-8-5.2);
- 7 (iii) that is a dangerous felony; or
- 8 (iv) that is not a felony otherwise described in items (i)
 9 through (iii), and less than ten (10) years have elapsed from
 10 the date the person was discharged from probation,
 11 imprisonment, or parole, whichever discharge date is latest.

12 (B) A misdemeanor related to the health or safety of a child.

13 (C) A misdemeanor for operating a child care center without
 14 a license under IC 12-17.2-4-35, or a substantially similar
 15 offense committed in another jurisdiction if the offense is
 16 directly or indirectly related to jeopardizing the health or
 17 safety of a child.

18 (D) A misdemeanor for operating a child care home without a
 19 license under section 35 of this chapter, or a substantially
 20 similar offense committed in another jurisdiction if the offense
 21 is directly or indirectly related to jeopardizing the health or
 22 safety of a child.

23 (3) A determination by the division that the licensee made false
 24 statements in the licensee's application for licensure.

25 (4) A determination by the division that the licensee made false
 26 statements in the records required by the division.

27 (5) A determination by the division that the licensee previously
 28 operated a:

29 (A) child care center without a license under IC 12-17.2-4; or

30 (B) child care home without a license under this chapter.

31 (b) Notwithstanding subsection (a)(2), if:

32 (1) a license is revoked due to a criminal conviction of:

33 (A) an employee or a volunteer of the licensee's; or

34 (B) a resident of the licensee's household; and

35 (2) the division determines that the:

36 (A) employee or volunteer has been dismissed by the licensee;

37 or

38 (B) member of the licensee's household is no longer a member
 39 of the licensee's household;

40 the criminal conviction of the former employee, former volunteer, or
 41 former member does not require revocation of a license.

42 SECTION 13. IC 12-21-8-10, AS ADDED BY P.L.207-2021,



1 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
2 JULY 1, 2022]: Sec. 10. (a) The division shall coordinate:

- 3 (1) available onsite response services of crisis calls using state
4 and locally funded mobile crisis teams; and
5 (2) crisis receiving and stabilization services resulting from a
6 9-8-8 call.

7 (b) The mobile crisis teams must include: ~~the following:~~

8 ~~(1) Jurisdiction based behavioral health teams; including:~~

9 **(1) a peer certified by the division; and**

10 **(2) at least one (1) of the following:**

11 (A) A behavioral health professional licensed under
12 IC 25-23.6. ~~and~~

13 (B) ~~peers certified by the division.~~ **An other behavioral**
14 **health professional (OBHP), as defined in 440 IAC 11-1-12.**

15 ~~(2) (C) Emergency medical services personnel licensed under~~
16 ~~IC 16-31.~~

17 ~~(3) (D) Law enforcement based coresponder behavioral health~~
18 ~~teams.~~

19 **(c) Crisis response services provided by a mobile crisis team**
20 **must be provided under the supervision of:**

21 **(1) a behavioral health professional licensed under IC 25-23.6;**

22 **(2) a licensed physician; or**

23 **(3) a licensed advance practice nurse or clinical nurse**
24 **specialist.**

25 **The supervision required under this subsection may be performed**
26 **remotely.**

27 SECTION 14. IC 35-36-3-1, AS AMENDED BY P.L.161-2018,
28 SECTION 120, IS AMENDED TO READ AS FOLLOWS
29 [EFFECTIVE JULY 1, 2022]: Sec. 1. (a) If at any time before the final
30 submission of any criminal case to the court or the jury trying the case,
31 the court has reasonable grounds for believing that the defendant lacks
32 the ability to understand the proceedings and assist in the preparation
33 of a defense, the court shall immediately fix a time for a hearing to
34 determine whether the defendant has that ability. The court shall
35 appoint two (2) or three (3) competent, disinterested:

36 (1) psychiatrists;

37 (2) psychologists endorsed by the Indiana state board of
38 examiners in psychology as health service providers in
39 psychology; or

40 (3) physicians;

41 who have expertise in determining competency. At least one (1) of the
42 individuals appointed under this subsection must be a psychiatrist or



1 psychologist. However, none may be an employee or a contractor of a
 2 state institution (as defined in IC 12-7-2-184). The individuals who are
 3 appointed shall examine the defendant and testify at the hearing as to
 4 whether the defendant can understand the proceedings and assist in the
 5 preparation of the defendant's defense.

6 (b) At the hearing, other evidence relevant to whether the defendant
 7 has the ability to understand the proceedings and assist in the
 8 preparation of the defendant's defense may be introduced. If the court
 9 finds that the defendant has the ability to understand the proceedings
 10 and assist in the preparation of the defendant's defense, the trial shall
 11 proceed. If the court finds that the defendant lacks this ability, it shall
 12 delay or continue the trial and order the defendant committed to the
 13 division of mental health and addiction. The division of mental health
 14 and addiction shall provide competency restoration services or enter
 15 into a contract for the provision of competency restoration services by
 16 a third party in the:

- 17 (1) location where the defendant currently resides; or
- 18 (2) least restrictive setting appropriate to the needs of the
 19 defendant and the safety of the defendant and others.

20 However, if the defendant is serving an unrelated executed sentence in
 21 the department of correction at the time the defendant is committed to
 22 the division of mental health and addiction under this section, the
 23 division of mental health and addiction shall provide competency
 24 restoration services or enter into a contract for the provision of
 25 competency restoration services by a third party at a department of
 26 correction facility agreed upon by the division of mental health and
 27 addiction or the third party contractor and the department of correction.
 28 **A contract entered into with a third party under this subsection**
 29 **may confer to the third party all authority the division would have**
 30 **in providing competency restoration services to the defendant at a**
 31 **state institution (as defined in IC 12-7-2-184).**

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



COMMITTEE REPORT

Mr. Speaker: Your Committee on Family, Children and Human Affairs, to which was referred House Bill 1222, 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 11, after line 41, begin a new paragraph and insert:

"SECTION 13. IC 12-21-8-10, AS ADDED BY P.L.207-2021, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 10. (a) The division shall coordinate:

- (1) available onsite response services of crisis calls using state and locally funded mobile crisis teams; and
- (2) crisis receiving and stabilization services resulting from a 9-8-8 call.

(b) The mobile crisis teams must include: ~~the following:~~

~~(1) Jurisdiction based behavioral health teams, including:~~

(1) a peer certified by the division; and

(2) at least one (1) of the following:

(A) A behavioral health professional licensed under IC 25-23.6. ~~and~~

(B) ~~peers certified by the division.~~ **An other behavioral health professional (OBHP), as defined in 440 IAC 11-1-12.**

~~(2) (C) Emergency medical services personnel licensed under IC 16-31.~~

~~(3) (D) Law enforcement based coresponder behavioral health teams.~~

(c) Crisis response services provided by a mobile crisis team must be provided under the supervision of:

(1) a behavioral health professional licensed under IC 25-23.6;

(2) a licensed physician; or

(3) a licensed advance practice nurse or clinical nurse specialist.

The supervision required under this subsection may be performed remotely.

SECTION 14. IC 35-36-3-1, AS AMENDED BY P.L.161-2018, SECTION 120, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 1. (a) If at any time before the final submission of any criminal case to the court or the jury trying the case, the court has reasonable grounds for believing that the defendant lacks the ability to understand the proceedings and assist in the preparation of a defense, the court shall immediately fix a time for a hearing to determine whether the defendant has that ability. The court shall appoint two (2) or three (3) competent, disinterested:

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- (1) psychiatrists;
- (2) psychologists endorsed by the Indiana state board of examiners in psychology as health service providers in psychology; or
- (3) physicians;

who have expertise in determining competency. At least one (1) of the individuals appointed under this subsection must be a psychiatrist or psychologist. However, none may be an employee or a contractor of a state institution (as defined in IC 12-7-2-184). The individuals who are appointed shall examine the defendant and testify at the hearing as to whether the defendant can understand the proceedings and assist in the preparation of the defendant's defense.

(b) At the hearing, other evidence relevant to whether the defendant has the ability to understand the proceedings and assist in the preparation of the defendant's defense may be introduced. If the court finds that the defendant has the ability to understand the proceedings and assist in the preparation of the defendant's defense, the trial shall proceed. If the court finds that the defendant lacks this ability, it shall delay or continue the trial and order the defendant committed to the division of mental health and addiction. The division of mental health and addiction shall provide competency restoration services or enter into a contract for the provision of competency restoration services by a third party in the:

- (1) location where the defendant currently resides; or
- (2) least restrictive setting appropriate to the needs of the defendant and the safety of the defendant and others.

However, if the defendant is serving an unrelated executed sentence in the department of correction at the time the defendant is committed to the division of mental health and addiction under this section, the division of mental health and addiction shall provide competency restoration services or enter into a contract for the provision of competency restoration services by a third party at a department of correction facility agreed upon by the division of mental health and addiction or the third party contractor and the department of correction. **A contract entered into with a third party under this subsection may confer to the third party all authority the division would have in providing competency restoration services to the defendant at a state institution (as defined in IC 12-7-2-184).**

(c) If the court makes a finding under subsection (b), the court shall transmit any information required by the office of judicial administration to the office of judicial administration for transmission to the NICS (as defined in IC 35-47-2.5-2.5) in accordance with



IC 33-24-6-3."

and when so amended that said bill do pass.

(Reference is to HB 1222 as introduced.)

DEVON

Committee Vote: yeas 12, nays 0.

