



January 26, 2023

HOUSE BILL No. 1006

DIGEST OF HB 1006 (Updated January 25, 2023 12:27 pm - DI 106)

Citations Affected: IC 5-2; IC 12-7; IC 12-15; IC 12-26; IC 16-36; IC 16-41; IC 27-8; IC 27-13; IC 31-37; IC 33-23; IC 35-33.

Synopsis: Mental health programs. Specifies the circumstances under which a person may be involuntarily committed to a facility for mental health services and specifies that these services are medically necessary. Establishes a local mental health referral program to provide mental health treatment for certain persons who have been arrested. Repeals obsolete provisions.

Effective: July 1, 2023.

**Steuerwald, McNamara, Jeter,
Moseley**

January 12, 2023, read first time and referred to Committee on Courts and Criminal Code.
January 26, 2023, amended, reported — Do Pass.

HB 1006—LS 6571/DI 106



January 26, 2023

First Regular Session of the 123rd General Assembly (2023)

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 2022 Regular Session of the General Assembly.

HOUSE BILL No. 1006

A BILL FOR AN ACT to amend the Indiana Code concerning courts and court officers.

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

1 SECTION 1. IC 5-2-21.2-6, AS AMENDED BY P.L.102-2017,
2 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2023]: Sec. 6. The technical assistance center shall:

4 (1) identify grants and other funds that may be used to fund:

5 (A) local crisis intervention teams;

6 (B) law enforcement agencies; and

7 (C) evaluation of the effectiveness of crisis intervention team
8 training;

9 (2) create and support a statewide crisis intervention team
10 advisory committee that includes representatives from:

11 (A) each local crisis intervention team in Indiana;

12 (B) state level stakeholders, including relevant provider
13 groups;

14 (C) state agencies, including the division of mental health and
15 addiction, the Indiana law enforcement academy, and other
16 agencies considered appropriate; and

17 (D) advocacy organizations, including organizations

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- 1 representing people affected by mental illnesses and substance
- 2 addiction disorders and other organizations considered
- 3 appropriate;
- 4 (3) assist rural counties in creating crisis intervention teams and
- 5 crisis intervention team training;
- 6 (4) provide established local crisis intervention teams with
- 7 appropriate training, information, and technical assistance to:
- 8 (A) assist law enforcement agencies and law enforcement
- 9 officers in providing a sense of dignity in crisis situations to an
- 10 individual in crisis;
- 11 (B) identify underserved populations with mental illness,
- 12 substance addiction disorders, or both, and link the
- 13 populations to appropriate care;
- 14 (C) build partnerships and encourage formal agreements
- 15 among local law enforcement, mental health providers,
- 16 individuals and families affected by mental illness and
- 17 substance addiction disorders, and other community
- 18 stakeholders to improve system prevention and response to
- 19 mental health and substance addiction disorder crises;
- 20 (D) develop and communicate a recommended best practices
- 21 crisis intervention team training curriculum, consistent with
- 22 recommended standards developed by CIT International; and
- 23 (E) identify and improve awareness of existing crisis response
- 24 resources;
- 25 (5) communicate and disseminate existing standard protocols for
- 26 law enforcement officers transferring an individual in crisis to
- 27 medical personnel for treatment under an **immediate emergency**
- 28 **detention under ~~IC 12-26-4~~; IC 12-26-5**;
- 29 (6) recognize local crisis intervention teams and law enforcement
- 30 officers trained in crisis intervention teams; and
- 31 (7) report on the status of crisis intervention teams in Indiana,
- 32 including:
- 33 (A) the overall operation of crisis intervention teams in
- 34 Indiana;
- 35 (B) problems local crisis intervention teams encounter and
- 36 proposed solutions, as identified by the advisory committee
- 37 described in subdivision (2);
- 38 (C) an evaluation of outcomes and best practices to achieve
- 39 crisis intervention team goals, including:
- 40 (i) the reduction in the amount of time law enforcement
- 41 officers spend out of service awaiting assessment and
- 42 disposition of individuals in crisis;



- (ii) reduction in injuries to law enforcement officers during crisis events;
- (iii) reduction of the use of force when responding to individuals in crisis;
- (iv) reduction in inappropriate arrests of individuals in crisis;
- (v) reducing the need for mental health treatment in jails; and

(vi) other goals identified by the technical assistance center;

(D) information regarding the number of crisis intervention trained officers in each county;

(E) the addresses and directors of the local crisis intervention teams and whether each local crisis intervention team:

- (i) is an established team meeting regularly to address local needs and host crisis intervention team training as needed;
- (ii) is a developing team consisting of community stakeholders planning for future crisis intervention team training, but training has not yet taken place; or
- (iii) is an inactive team, in which law enforcement officers were previously trained to be crisis intervention teams but there are no future plans for crisis intervention team training; and

(F) an analysis of costs and cost savings associated with crisis intervention teams.

SECTION 2. IC 12-7-2-53 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 53. **(a) Except as provided in subsection (b), "dangerous",** for purposes of IC 12-26, means a condition in which an individual as a result of mental illness, presents a substantial risk that the individual will harm the individual or others.

(b) "Dangerous", for purposes of IC 12-26-5, means a condition in which an individual presents a substantial risk that the individual will harm the individual or others.

SECTION 3. IC 12-7-2-130, AS AMENDED BY P.L.117-2015, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 130. "Mental illness" or "**mentally ill**" means the following:

- (1) For purposes of IC 12-23-5, IC 12-24, and IC 12-26, a psychiatric disorder that:
 - (A) substantially disturbs an individual's thinking, feeling, or behavior; and
 - (B) impairs the individual's ability to function.



The term includes intellectual disability, alcoholism, and addiction to narcotics or dangerous drugs, **and, for purposes of IC 12-26-5, the term includes temporary impairment as a result of alcohol or drug use.**

(2) For purposes of IC 12-28-4 and IC 12-28-5, a psychiatric disorder that:

(A) substantially disturbs an individual's thinking, feeling, or behavior; and

(B) impairs the individual's ability to function.

The term does not include developmental disability.

SECTION 4. IC 12-15-5-13.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: **Sec. 13.5. (a) Services provided to an individual while detained under IC 12-26-5 are medically necessary.**

(b) The office shall require managed care organizations to consider services provided to an individual while detained under IC 12-26-5 as medically necessary.

SECTION 5. IC 12-26-1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 1. An individual who is mentally ill and either dangerous or gravely disabled may be involuntarily detained or committed under any of the following statutes:

~~(1) IC 12-26-4 (immediate detention);~~

~~(2) (1) IC 12-26-5 (emergency detention).~~

~~(3) (2) IC 12-26-6 (temporary commitment).~~

~~(4) (3) IC 12-26-7 (regular commitment).~~

SECTION 6. IC 12-26-1-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 7. (a) This section does not apply in the following statutes:

~~(1) IC 12-26-4.~~

~~(2) (1) IC 12-26-11.~~

~~(3) (2) IC 12-26-12.~~

(b) This section does not apply to computation of a period during which an individual may be detained under this article.

(c) In computing time under this article, Saturdays, Sundays, and legal holidays are not included in the computation if the time prescribed is less than fourteen (14) days.

SECTION 7. IC 12-26-1-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 8. Upon the filing of a petition for commitment under IC 12-26-6 or IC 12-26-7 or the filing of a report under IC 12-26-3-5, the individual may be detained in an



appropriate facility:

(1) by an order of the court pending a hearing; or

(2) pending an order of the court under:

(A) IC 12-26-3-6; or

~~(B) IC 12-26-5-10; or~~

~~(C) IC 12-26-5-11.~~

(B) IC 12-26-5.

SECTION 8. IC 12-26-4 IS REPEALED [EFFECTIVE JULY 1, 2023]. (Immediate Detention).

SECTION 9. IC 12-26-5-0.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: **Sec. 0.5. (a) A law enforcement officer, having reasonable grounds to believe that an individual has a mental illness, is either dangerous or gravely disabled, and is in immediate need of hospitalization and treatment, may do one (1) or more of the following:**

(1) Apprehend and transport the individual to the nearest appropriate facility. The individual may not be transported to a state institution.

(2) Charge the individual with an offense, if applicable.

(b) A law enforcement officer who transports an individual to a facility under subsection (a) shall submit to the facility a written statement containing the basis for the officer's conclusion that reasonable grounds exist under this chapter. The statement shall be filed with both of the following:

(1) The individual's records at the facility.

(2) The appropriate court, if action relating to any charges filed by the officer against the individual is pursued.

(c) If a court has reasonable grounds to believe that an individual:

(1) has a mental illness;

(2) is either dangerous or gravely disabled; and

(3) is in immediate need of hospitalization and treatment;

the court may order the individual to be detained at the nearest appropriate facility for a preliminary medical and psychological evaluation. The individual may not be transported to a state institution.

(d) An individual detained under this section shall be discharged if the superintendent of the facility, or the physician, advanced practice registered nurse, or physician assistant believes detention is no longer necessary. As soon as practicable after discharge, the facility shall notify the court that ordered the detention that the



individual has been discharged.

(e) The superintendent of the facility or a physician, an advanced practice registered nurse, or a physician assistant may furnish emergency treatment to an individual transported to a facility under this section that is necessary to:

(1) preserve the health and safety of the individual detained; and

(2) protect other persons and property.

(f) If clinically appropriate, a physician may authorize and begin a mental health or substance use disorder treatment plan for an individual detained under this chapter.

SECTION 10. IC 12-26-5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 1. (a) An individual may be detained in a facility for not more than seventy-two (72) hours under this chapter, excluding Saturdays, Sundays, and legal holidays, if a written application for detention is filed with ~~the facility~~: **a court of competent jurisdiction in accordance with this section.** ~~The individual may not be detained in a state institution unless the detention is instituted by the state institution.~~

(b) An individual may be detained in a facility for not more than forty-eight (48) hours from the time of admission, excluding Saturdays, Sundays, and legal holidays, unless the facility files an application for detention with a court of competent jurisdiction within the forty-eight (48) hour period. If the facility timely files an application for detention, the individual may be detained for not more than seventy-two (72) hours from the time of admission, excluding Saturdays, Sundays, and legal holidays, unless the court approves the application for detention. If the court approves the application for detention, the individual may be held for not more than fourteen (14) days, excluding Saturdays, Sundays, and legal holidays, pending a final hearing under section 11 of this chapter.

~~(b)~~ (c) An application for detention under subsection ~~(a)~~ (b) must contain both of the following: a statement that the individual has been examined by a physician, an advanced practice registered nurse, or a physician assistant, and that based on this examination, the applicant believes that there is probable cause to believe that:

(1) the individual is mentally ill and either dangerous or gravely disabled; and

(2) the individual requires continuing involuntary detention to receive care and treatment.

~~(1)~~ A statement of the applicant's belief that the individual is:

~~(A)~~ mentally ill and either dangerous or gravely disabled; and



- 1 ~~(B) in need of immediate restraint;~~
2 ~~(2) A statement by at least one (1) physician that, based on:~~
3 ~~(A) an examination; or~~
4 ~~(B) information given the physician;~~
5 ~~the individual may be mentally ill and either dangerous or gravely~~
6 ~~disabled.~~
7 **(d) A facility may not be required to first seek transfer of the**
8 **individual to a psychiatric hospital before commencing an**
9 **application for detention.**
10 **(e) A facility may commence an application for detention even**
11 **if an individual was not apprehended and transported to a facility**
12 **under section 0.5 of this chapter.**
13 SECTION 11. IC 12-26-5-2, AS AMENDED BY P.L.196-2021,
14 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
15 JULY 1, 2023]: Sec. 2. (a) If a judicial officer authorized to issue a
16 warrant for arrest in the county in which the individual is present
17 ~~endorses~~ **approves** an application ~~for detention~~ made under section 1
18 of this chapter, the application authorizes a police officer to take the
19 individual into custody and transport the individual to a facility, **if**
20 **applicable.**
21 (b) Except as provided in subsection (c), the expense of
22 transportation under this section shall be paid by the county in which
23 the individual is present.
24 (c) This subsection applies only to the nonemergency transport to a
25 facility by the county sheriff or deputy sheriff of an individual who:
26 (1) is not in lawful detention (as defined in IC 36-2-13-18);
27 (2) has had an application for the individual's detention under
28 section 1 of this chapter ~~endorsed~~ **approved** by a judicial officer;
29 and
30 (3) is transported more than thirty (30) miles.
31 The county sheriff may be reimbursed from the individual's health care
32 coverage, including health coverage offered or administered by the
33 state.
34 SECTION 12. IC 12-26-5-4 IS REPEALED [EFFECTIVE JULY 1,
35 2023]. Sec. 4: If during a detention period under this chapter the
36 superintendent or the attending physician determines that there is not
37 probable cause to believe the individual is mentally ill and either
38 dangerous or gravely disabled; a report shall be made under section 5
39 of this chapter.
40 SECTION 13. IC 12-26-5-5 IS REPEALED [EFFECTIVE JULY 1,
41 2023]. Sec. 5: Before the end of a detention period under this chapter,
42 the superintendent of the facility or the individual's attending physician



shall make a written report to the court. The report must contain both of the following:

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

SECTION 14. IC 12-26-5-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 6. (a) If a **report the court does not approve an application for detention made** under section 5 of this chapter, states there is **not probable cause**, the individual shall be discharged from the facility.

(b) The **report application** shall be made part of the individual's **medical** record.

SECTION 15. IC 12-26-5-7 IS REPEALED [EFFECTIVE JULY 1, 2023]. Sec. 7: If a report made under section 5 of this chapter states there is probable cause, the report shall recommend both of the following:

- (1) That the court hold a hearing to determine whether:
 - (A) the individual is mentally ill and either dangerous or gravely disabled; and
 - (B) there is a need for continuing involuntary detention.
- (2) That the individual be detained in the facility pending the hearing.

SECTION 16. IC 12-26-5-8 IS REPEALED [EFFECTIVE JULY 1, 2023]. Sec. 8: The court shall consider and act upon a report described in section 7 of this chapter within twenty-four (24) hours of receiving the report.

SECTION 17. IC 12-26-5-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 9. (a) After receiving a report described in section 7 of **an application for detention under section 1** of this chapter, the court **shall, without a hearing, consider the application and** may do **any one (1)** of the following:

- (1) If the court finds that there is **not probable cause to detain the individual**, order the individual released.
- (2) If the court finds that there is **probable cause to detain the individual**, order the individual's continued detention **in an appropriate facility** pending a **preliminary final** hearing **under section 11 of this chapter**. The purpose of a hearing under this subdivision is to determine if there is probable cause to believe that the individual is:



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

2 (B) in need of temporary or regular commitment.

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

5 (A) mentally ill and either dangerous or gravely disabled; and

6 (B) in need of temporary or regular commitment.

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

9 SECTION 18. IC 12-26-5-10 IS REPEALED [EFFECTIVE JULY
10 1, 2023]. Sec. 10: (a) A physician's statement may be introduced into
11 evidence at the preliminary hearing held under section 9(a)(2) of this
12 chapter without the presence of the physician.

13 (b) A finding of probable cause may not be entered at a preliminary
14 hearing unless there is oral testimony:

15 (1) subject to cross-examination; and

16 (2) of at least one (1) witness who:

17 (A) has personally observed the behavior of the individual;
18 and

19 (B) will testify to facts supporting a finding that there is
20 probable cause to believe that the individual is in need of
21 temporary or regular commitment.

22 (c) At the conclusion of the preliminary hearing, if the court does
23 not find probable cause, the individual shall be immediately
24 discharged.

25 (d) If the court finds at the conclusion of the preliminary hearing
26 probable cause to believe that the individual needs temporary or
27 regular commitment, the court shall order the detention of the
28 individual in an appropriate facility pending a final hearing.

29 SECTION 19. IC 12-26-5-11 IS AMENDED TO READ AS
30 FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 11. (a) A final hearing
31 required by ~~section 10(d)~~ **section 9** of this chapter shall be held ~~within~~
32 **not later than ten (10) fourteen (14) days of from** the date of the
33 preliminary hearing; ~~individual's admission to a facility, excluding~~
34 **Saturdays, Sundays, and legal holidays. The purpose of a final**
35 **hearing is to determine by clear and convincing evidence whether**
36 **the individual is:**

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

38 (2) in need of temporary or regular commitment.

39 (b) At a final hearing, an individual may not be found in need of
40 temporary or regular commitment unless at least one (1) physician,
41 **advanced practice registered nurse, or physician assistant** who has
42 personally examined the individual testifies at the hearing. This



1 testimony may be waived by the individual if the waiver is voluntarily
2 and knowingly given.

3 (c) If an individual has not previously been the subject of a
4 commitment proceeding, the court may order only a temporary
5 commitment.

6 (d) If an individual has previously been the subject of a commitment
7 proceeding, the court may order a regular commitment if a longer
8 period of treatment is warranted.

9 SECTION 20. IC 12-26-5-13 IS ADDED TO THE INDIANA
10 CODE AS A NEW SECTION TO READ AS FOLLOWS
11 [EFFECTIVE JULY 1, 2023]: **Sec. 13. The following may not be held**
12 **liable for an act or omission taken in good faith under this chapter,**
13 **unless the act or omission constitutes gross negligence or willful or**
14 **wanton misconduct:**

15 (1) A facility in which an individual is detained, treated,
16 evaluated, or assessed.

17 (2) A law enforcement officer.

18 (3) The superintendent of a facility.

19 (4) A physician.

20 (5) An advanced practice registered nurse.

21 (6) A physician assistant.

22 SECTION 21. IC 16-36-1.5-1 IS AMENDED TO READ AS
23 FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 1. This chapter does not
24 apply when an individual is detained or committed under ~~IC 12-26-4~~,
25 IC 12-26-5, IC 12-26-6, or IC 12-26-7.

26 SECTION 22. IC 16-36-1.7-0.5 IS AMENDED TO READ AS
27 FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 0.5. This chapter does
28 not apply when an individual is detained or committed under
29 ~~IC 12-26-4~~, IC 12-26-5, IC 12-26-6, or IC 12-26-7.

30 SECTION 23. IC 16-41-9-5, AS AMENDED BY P.L.112-2020,
31 SECTION 34, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
32 JULY 1, 2023]: Sec. 5. (a) If a designated health official determines
33 that an individual with a communicable disease has a serious
34 communicable disease and has reasonable grounds to believe that the
35 individual with a communicable disease is mentally ill and either
36 dangerous or gravely disabled, the designated health official may
37 request ~~(1) immediate detention under IC 12-26-4; or (2) emergency~~
38 ~~detention under IC 12-26-5~~ for the purpose of having the individual
39 with a communicable disease apprehended, detained, and examined.
40 The designated health official may provide to the superintendent of the
41 psychiatric hospital or center or the attending physician information
42 about the communicable disease status of the individual with a



communicable disease. Communications under this subsection do not constitute a breach of confidentiality.

(b) If the ~~written report~~ **application for detention** required under ~~IC 12-26-5-5~~ **IC 12-26-5**, states there is probable cause to believe the individual with a communicable disease is mentally ill and either dangerous or gravely disabled and requires continuing care and treatment, proceedings may continue under IC 12-26.

(c) If the ~~written report~~ **court does not approve an application for detention** required under ~~IC 12-26-5-5~~, **IC 12-26-5**, or if an **application for detention is not timely filed**, states there is not probable cause to believe the individual with a communicable disease is mentally ill and either dangerous or gravely disabled and requires continuing care and treatment, the individual with a communicable disease shall be referred to the designated health official who may take action under this article.

SECTION 24. IC 27-8-5-15.9 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: **Sec. 15.9. An insurer that issues a policy of accident and sickness insurance shall consider services provided to an individual while detained under IC 12-26-5 as medically necessary.**

SECTION 25. IC 27-13-7-28 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: **Sec. 28. An individual contract and a group contract shall consider services provided to an individual while detained under IC 12-26-5 as medically necessary.**

SECTION 26. IC 31-37-4-3, AS AMENDED BY P.L.211-2019, SECTION 41, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 3. (a) This section applies if a child is arrested or taken into custody for allegedly committing an act that would be any of the following crimes if committed by an adult:

- (1) Murder (IC 35-42-1-1).
- (2) Attempted murder (IC 35-41-5-1).
- (3) Voluntary manslaughter (IC 35-42-1-3).
- (4) Involuntary manslaughter (IC 35-42-1-4).
- (5) Reckless homicide (IC 35-42-1-5).
- (6) Aggravated battery (IC 35-42-2-1.5).
- (7) Battery (IC 35-42-2-1).
- (8) Kidnapping (IC 35-42-3-2).
- (9) A sex crime listed in IC 35-42-4-1 through IC 35-42-4-8.
- (10) Sexual misconduct with a minor (IC 35-42-4-9).
- (11) Incest (IC 35-46-1-3).



- 1 (12) Robbery as a Level 2 felony or a Level 3 felony
- 2 (IC 35-42-5-1).
- 3 (13) Burglary as a Level 1 felony, Level 2 felony, Level 3 felony,
- 4 or Level 4 felony (IC 35-43-2-1).
- 5 (14) Assisting a criminal as a Level 5 felony (IC 35-44.1-2-5).
- 6 (15) Escape (IC 35-44.1-3-4) as a Level 4 felony or Level 5
- 7 felony.
- 8 (16) Trafficking with an inmate as a Level 5 felony
- 9 (IC 35-44.1-3-5).
- 10 (17) Causing death or catastrophic injury when operating a
- 11 vehicle (IC 9-30-5-5).
- 12 (18) Criminal confinement (IC 35-42-3-3) as a Level 2 or Level
- 13 3 felony.
- 14 (19) Arson (IC 35-43-1-1) as a Level 2 felony, Level 3 felony, or
- 15 Level 4 felony.
- 16 (20) Possession, use, or manufacture of a weapon of mass
- 17 destruction (IC 35-47-12-1) (before its repeal).
- 18 (21) Terroristic mischief (IC 35-47-12-3) as a Level 2 or Level 3
- 19 felony (before its repeal).
- 20 (22) Hijacking or disrupting an aircraft (IC 35-47-6-1.6).
- 21 (23) A violation of IC 35-47.5 (controlled explosives) as a Level
- 22 2 felony, Level 3 felony, or Level 4 felony.
- 23 (24) A controlled substances offense under IC 35-48.
- 24 (25) A criminal organization offense under IC 35-45-9.
- 25 (26) Domestic battery (IC 35-42-2-1.3).
- 26 (27) A felony terrorist offense (as defined in IC 35-50-2-18).
- 27 (b) If a child is taken into custody under this chapter for a crime or
- 28 act listed in subsection (a) or a situation to which ~~IC 12-26-4-1~~
- 29 **IC 12-26-5-1** applies, the law enforcement agency that employs the law
- 30 enforcement officer who takes the child into custody shall notify the
- 31 chief administrative officer of the primary or secondary school,
- 32 including a public or nonpublic school, in which the child is enrolled
- 33 or, if the child is enrolled in a public school, the superintendent of the
- 34 school district in which the child is enrolled:
- 35 (1) that the child was taken into custody; and
- 36 (2) of the reason why the child was taken into custody.
- 37 (c) The notification under subsection (b) must occur within
- 38 forty-eight (48) hours after the child is taken into custody.
- 39 (d) A law enforcement agency may not disclose information that is
- 40 confidential under state or federal law to a school or school district
- 41 under this section.
- 42 (e) A law enforcement agency shall include in its training for law



1 enforcement officers training concerning the notification requirements
2 under subsection (b).

3 SECTION 27. IC 33-23-18 IS ADDED TO THE INDIANA CODE
4 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
5 JULY 1, 2023]:

6 **Chapter 18. Mental Health Referral Program**

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

8 (1) "Assessor" means a physician licensed under IC 25-22.5 or
9 a psychologist licensed under IC 25-33, if the physician or
10 psychologist is registered with the division to conduct an
11 assessment under this chapter.

12 (2) "Council" means a local or regional justice reinvestment
13 advisory council established by IC 33-38-9.5-4.

14 (3) "Crime of violence" has the meaning set forth in
15 IC 35-50-1-2(a).

16 (4) "Division" means the division of mental health and
17 addiction.

18 (5) "Qualified adult" means an adult whom a referral
19 program is designed to assist.

20 (6) "Referral program" means a program established under
21 section 2 of this chapter designed to provide an adult an
22 opportunity to receive voluntary community treatment
23 addressing mental health, and other services as a condition of
24 pretrial release. The term includes a regional referral
25 program.

26 **Sec. 2. (a) A council may establish a referral program in the**
27 **county served by the council.**

28 **(b) A referral program established under this section must**
29 **comply with:**

30 **(1) this chapter; and**

31 **(2) rules adopted by the division concerning:**

32 **(A) educational and occupational requirements for**
33 **treatment providers; and**

34 **(B) the operation of the program.**

35 **(c) Subject to subsection (b), the council shall direct the**
36 **operation of the referral program in the county or region served by**
37 **the referral program.**

38 **(d) The council shall employ, contract with, or appoint one (1)**
39 **or more treatment providers.**

40 **Sec. 3. If a sheriff, prosecutor, or criminal defense attorney**
41 **having contact with an adult who has been:**

42 **(1) detained; and**



1 (2) charged with an offense;
 2 has reason to believe that the adult may be a qualified adult, the
 3 sheriff, prosecutor, or defense attorney may file a written petition
 4 with the appropriate court and request that the court select an
 5 assessor to evaluate the adult to determine if the adult is a qualified
 6 adult.

7 Sec. 4. (a) An assessor selected to evaluate an adult who may be
 8 a qualified adult shall:

- 9 (1) conduct an appropriate psychological evaluation of the
 10 adult;
 11 (2) recommend whether the adult would likely benefit from
 12 participation in the referral program; and
 13 (3) explain, in detail, the reason for the recommendation.

14 The evaluation, recommendation, and explanation shall be
 15 submitted to the court in writing, with the recommendation being
 16 submitted on a sheet separate from the evaluation and explanation.

17 (b) The evaluation and explanation are confidential. The
 18 recommendation is a public record unless ordered sealed by the
 19 court.

20 (c) The state shall pay the costs of the assessment under
 21 subsection (a).

22 Sec. 5. (a) After reviewing the evaluation, recommendation, and
 23 explanation, and after determining that the person has not been
 24 charged with or convicted of a crime of violence, the court may set
 25 a hearing under IC 35-33-8-3.2 to determine whether the court
 26 should, as a condition of pretrial release, refer the adult to a
 27 treatment provider for appropriate:

- 28 (1) mental health or other treatment; and
 29 (2) ancillary services.

30 (b) After reviewing the evaluation, recommendation, and
 31 explanation, and after determining that the adult has been charged
 32 with or convicted of a crime of violence but is eligible to receive
 33 mental health treatment, the court may refer the adult to a
 34 treatment provider for appropriate:

- 35 (1) mental health or other treatment; and
 36 (2) ancillary services;

37 in a secure facility operated by the department of correction or
 38 operated or licensed by the division.

39 (c) A court may only refer a person who has been charged with
 40 or convicted of a crime of violence for treatment in a secure facility
 41 operated by the department of correction or operated or licensed
 42 by the division.



(d) In addition to or instead of referring an adult to a treatment provider under subsection (a) or (b), a court may order the adult transported for an immediate medical and psychological examination.

(e) A treatment provider shall provide the court with one (1) or more written reports concerning the progress of the referred adult:

(1) at least once every calendar month; or

(2) at an interval determined by the court.

(f) If criminal charges are pending against the qualified adult, the court may allow the person to participate in the referral program in accordance with section 6 or 7 of this chapter.

Sec. 6. (a) A person against whom criminal charges are pending is eligible to participate in the referral program only if the court finds, following a hearing, that the person meets the following criteria:

(1) The person is a qualified adult who has been referred to a treatment provider under section 5 of this chapter.

(2) The court has determined that the person is an appropriate candidate to participate in the referral program.

(b) Participation in the referral program does not divert, delay, or otherwise affect the criminal prosecution against the person.

Sec. 7. (a) The division shall adopt rules establishing requirements and procedures to implement this chapter, including rules concerning educational and occupational qualifications for treatment providers.

(b) Rules adopted under this section must require that the treatment provider be a provider certified by the division and licensed by the Indiana professional licensing agency to provide mental health services.

Sec. 8. The division shall ensure that referral programs comply with this chapter, rules adopted under this chapter, and any applicable federal regulations. The division may suspend or terminate a referral program if the division determines that the program is not compliant.

SECTION 28. IC 35-33-8-3.2, AS AMENDED BY P.L.147-2022, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 3.2. (a) After considering the results of the Indiana pretrial risk assessment system (if available), other relevant factors, and bail guidelines described in section 3.8 of this chapter, a court may admit a defendant to bail and impose any of the following conditions to assure the defendant's appearance at any stage of the legal proceedings, or, upon a showing of clear and convincing evidence that



1 the defendant poses a risk of physical danger to another person or the
2 community, to assure the public's physical safety:

3 (1) Require the defendant to:

4 (A) execute a bail bond with sufficient solvent sureties;

5 (B) deposit cash or securities in an amount equal to the bail;

6 (C) execute a bond secured by real estate in the county, where
7 thirty-three hundredths (0.33) of the true tax value less
8 encumbrances is at least equal to the amount of the bail;

9 (D) post a real estate bond; or

10 (E) perform any combination of the requirements described in
11 clauses (A) through (D).

12 If the court requires the defendant to deposit cash or cash and
13 another form of security as bail, the court may require the
14 defendant and each person who makes the deposit on behalf of the
15 defendant to execute an agreement that allows the court to retain
16 all or a part of the cash to pay publicly paid costs of
17 representation and fines, costs, fees, and restitution that the court
18 may order the defendant to pay if the defendant is convicted.
19 Before execution of the agreement, the defendant or person who
20 makes the deposit on behalf of the defendant shall be advised that,
21 upon conviction of the defendant, the court may retain from the
22 cash deposited as bail all or a part of the cash to pay publicly paid
23 costs of representation and fines, costs, fees, and restitution that
24 the court may order the defendant to pay if the defendant is
25 convicted. The defendant must also pay the fee required by
26 subsection (d).

27 (2) Require the defendant to execute:

28 (A) a bail bond by depositing cash or securities with the clerk
29 of the court in an amount not less than ten percent (10%) of
30 the bail; and

31 (B) an agreement that allows the court to retain all or a part of
32 the cash or securities to pay fines, costs, fees, and restitution
33 that the court may order the defendant to pay if the defendant
34 is convicted.

35 A portion of the deposit, not to exceed ten percent (10%) of the
36 monetary value of the deposit or fifty dollars (\$50), whichever is
37 the lesser amount, may be retained as an administrative fee. The
38 clerk shall also retain from the deposit under this subdivision
39 fines, costs, fees, and restitution as ordered by the court, publicly
40 paid costs of representation that shall be disposed of in
41 accordance with subsection (b), and the fee required by
42 subsection (d). In the event of the posting of a real estate bond,



the bond shall be used only to insure the presence of the defendant at any stage of the legal proceedings, but shall not be foreclosed for the payment of fines, costs, fees, or restitution. The individual posting bail for the defendant or the defendant admitted to bail under this subdivision must be notified by the sheriff, court, or clerk that the defendant's deposit may be forfeited under section 7 of this chapter or retained under subsection (b).

(3) Impose reasonable restrictions on the activities, movements, associations, and residence of the defendant during the period of release.

(4) Except as provided in section 3.6 of this chapter, require the defendant to refrain from any direct or indirect contact with an individual and, if the defendant has been charged with an offense under IC 35-46-3, any animal belonging to the individual, including if the defendant has not been released from lawful detention.

(5) Place the defendant under the reasonable supervision of a probation officer, pretrial services agency, or other appropriate public official. If the court places the defendant under the supervision of a probation officer or pretrial services agency, the court shall determine whether the defendant must pay the pretrial services fee under section 3.3 of this chapter.

(6) Release the defendant into the care of a qualified person or organization responsible for supervising the defendant and assisting the defendant in appearing in court. The supervisor shall maintain reasonable contact with the defendant in order to assist the defendant in making arrangements to appear in court and, where appropriate, shall accompany the defendant to court. The supervisor need not be financially responsible for the defendant.

(7) Release the defendant on personal recognizance unless:

(A) the state presents evidence relevant to a risk by the defendant:

(i) of nonappearance; or

(ii) to the physical safety of the public; and

(B) the court finds by a preponderance of the evidence that the risk exists.

(8) Require a defendant charged with an offense under IC 35-46-3 to refrain from owning, harboring, or training an animal.

(9) Require a defendant to participate in a mental health referral program under IC 33-23-18.

~~(9)~~ (10) Impose any other reasonable restrictions designed to



1 assure the defendant's presence in court or the physical safety of
2 another person or the community.

3 (b) Within thirty (30) days after disposition of the charges against
4 the defendant, the court that admitted the defendant to bail shall order
5 the clerk to remit the amount of the deposit remaining under subsection
6 (a)(2) to the person who made the deposit. The portion of the deposit
7 that is not remitted to the person who made the deposit shall be
8 deposited by the clerk in the supplemental public defender services
9 fund established under IC 33-40-3.

10 (c) For purposes of subsection (b), "disposition" occurs when the
11 indictment or information is dismissed or the defendant is acquitted or
12 convicted of the charges.

13 (d) Except as provided in subsection (e), the clerk of the court shall:

14 (1) collect a fee of five dollars (\$5) from each bond or deposit
15 required under subsection (a)(1); and

16 (2) retain a fee of five dollars (\$5) from each deposit under
17 subsection (a)(2).

18 The clerk of the court shall semiannually remit the fees collected under
19 this subsection to the board of trustees of the Indiana public retirement
20 system for deposit in the special death benefit fund. The fee required
21 by subdivision (2) is in addition to the administrative fee retained under
22 subsection (a)(2).

23 (e) With the approval of the clerk of the court, the county sheriff
24 may collect the bail posted under this section. The county sheriff shall
25 remit the bail to the clerk of the court by the following business day
26 and remit monthly the five dollar (\$5) special death benefit fee to the
27 county auditor.

28 (f) When a court imposes a condition of bail described in subsection
29 (a)(4):

30 (1) the clerk of the court shall comply with IC 5-2-9; and

31 (2) the prosecuting attorney shall file a confidential form
32 prescribed or approved by the office of judicial administration
33 with the clerk.

34 (g) The clerk of the court shall record the name, address, and bail
35 agent license number, if applicable, of the bail agent or a person
36 authorized by the surety posting bail for the defendant in the county
37 court electronic case management system.



COMMITTEE REPORT

Mr. Speaker: Your Committee on Courts and Criminal Code, to which was referred House Bill 1006, 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 6, between lines 8 and 9, begin a new paragraph and insert:

"(f) If clinically appropriate, a physician may authorize and begin a mental health or substance use disorder treatment plan for an individual detained under this chapter."

Page 14, line 34, after "or" insert **"operated or licensed by"**.

Page 14, line 38, after "or" insert **"operated or licensed by"**.

and when so amended that said bill do pass.

(Reference is to HB 1006 as introduced.)

MCNAMARA

Committee Vote: yeas 13, nays 0.

HB 1006—LS 6571/DI 106

