

SENATE BILL No. 594

DIGEST OF INTRODUCED BILL

Citations Affected: IC 34-30-2-153.1; IC 35-31.5-2; IC 35-47-2-25.

Synopsis: Mental health provider reporting requirements. Requires a mental health professional to notify the office of judicial administration, for transmittal to the NICS, that an individual has a propensity for violent or emotionally unstable conduct. Provides that the notification expires: (1) after five years; or (2) when the mental health professional makes a determination that the individual no longer has a propensity for violent or emotionally unstable conduct; whichever occurs earlier.

Effective: July 1, 2019.

Mrvan

January 15, 2019, read first time and referred to Committee on Health and Provider Services.



First Regular Session of the 121st General Assembly (2019)

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 2018 Regular and Special Session of the General Assembly.

SENATE BILL No. 594

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

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

1 SECTION 1. IC 34-30-2-153.1 IS ADDED TO THE INDIANA
2 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
3 [EFFECTIVE JULY 1, 2019]: **Sec. 153.1. IC 35-47-2-25 (Concerning**
4 **liability of mental health professionals for reporting to NICS).**

5 SECTION 2. IC 35-31.5-2-197.5, AS ADDED BY P.L.208-2013,
6 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
7 JULY 1, 2019]: Sec. 197.5. "Mental health professional", for purposes
8 of IC 35-42-4-7 **and IC 35-47-2-25**, has the meaning set forth in
9 IC 35-42-4-7(f).

10 SECTION 3. IC 35-31.5-2-210.7, AS ADDED BY P.L.66-2016,
11 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
12 JULY 1, 2019]: Sec. 210.7. "NICS", for purposes of IC 35-36-2-4,
13 IC 35-36-2-5, IC 35-36-3-1, **IC 35-47-2**, ~~IC 35-47-2-7~~, IC 35-47-2.5,
14 and IC 35-47-8.5, has the meaning set forth in IC 35-47-2.5-2.5.

15 SECTION 4. IC 35-47-2-25 IS ADDED TO THE INDIANA CODE
16 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
17 1, 2019]: **Sec. 25. (a) As used in this section, "mental health**



1 professional" has the meaning set forth in IC 35-42-4-7.

2 (b) As used in this section, "NICS" has the meaning set forth in
3 IC 35-47-2.5-2.5.

4 (c) A mental health professional who:

5 (1) is providing professional services to an individual within
6 the scope of the professional's license; and

7 (2) has a reasonable belief, based on the mental health
8 professional's professional judgment, that the individual has
9 a propensity for violent or emotionally unstable conduct;

10 shall notify the office of judicial administration that the individual
11 is not a proper person under IC 35-47-1-7(6) and transmit any
12 information required by the office of judicial administration to the
13 office of judicial administration for transmission to the NICS in
14 accordance with IC 33-24-6-3.

15 (d) A determination by a mental health professional under
16 subsection (c) is valid:

17 (1) for five (5) years; or

18 (2) until the mental health professional determines, based on
19 the mental health professional's professional judgment, that
20 the individual no longer has a propensity for violent or
21 emotionally unstable conduct;

22 whichever occurs first. If the mental health professional makes a
23 determination under subdivision (2), the mental health professional
24 shall transmit any information required by the office of judicial
25 administration to the office of judicial administration for
26 transmission to the NICS in accordance with IC 33-24-6-3.

27 (e) Except as provided in subsection (f), if a mental health
28 professional has not made a determination under subsection (d)(2),
29 five (5) years after the office of judicial administration initially
30 notified the NICS that the individual was not a proper person
31 under IC 35-47-1-7(6), the office shall notify the NICS that the
32 basis for that previous notification no longer exists.

33 (f) If the office of judicial administration has received more than
34 one (1) notification under subsection (c) concerning an individual,
35 the five (5) year period does not expire until five (5) years have
36 elapsed from the most recent determination.

37 (g) A mental health professional is immune from civil liability
38 for an act or omission relating to the making of a determination,
39 notification, or transmission under this section. However, this
40 immunity does not apply to conduct amounting to gross negligence
41 or willful or wanton misconduct.

