HOUSE BILL No. 1406

DIGEST OF INTRODUCED BILL

Citations Affected: IC 11-10.

Synopsis: Assignment of offenders based on biological sex. Provides that the department of correction shall assign an offender, including a delinquent offender, to a facility or program that is based on the offender's biological sex at birth in accordance with the offender's genetics and reproductive biology.

Effective: July 1, 2024.

Mayfield, King, Davis

January 11, 2024, read first time and referred to Committee on Courts and Criminal Code.

Introduced

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. 1406

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

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

SECTION 1. IC 11-10-1-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]: Sec. 3. (a) Upon completion of the evaluation prescribed in section 2 of this chapter and before assigning ~~him~~ **an offender** to a facility or program, the department shall determine the appropriate degree of security (maximum, medium, or minimum) for each offender as described in IC 35-38-3-6. In making that determination the department shall, in addition to other relevant information, consider:

(1) the results of the evaluation prescribed in section 2 of this chapter;

(2) the recommendations of the sentencing court; and

(3) the degree and kind of custodial control necessary for the protection of the public, staff, other confined persons, and the individual being considered.

(b) After determining the offender's security classification, the department shall assign ~~him~~ **the offender** to a facility or program; make an initial employment, education, training, or other assignment

within that facility or program; and order medical, psychiatric, psychological, or other services. In making the assignment, the department shall, in addition to other relevant information, consider:

(1) the results of the evaluation prescribed in section 2 of this chapter;

(2) the offender's security classification;

(3) the offender's need for special therapy or programs, including employment, education, or training available only in specific facilities or programs;

(4) the likelihood of the offender's reintegration into the community in which the facility or program is located;

(5) the desirability of keeping the offender in a facility or program near the area in which ~~he~~ **the offender** resided before commitment;

(6) the desires of the offender;

(7) the current population levels of the facilities or programs considered appropriate for the offender; and

(8) the length of the offender's sentence.

(c) If the department determines that a committed offender is mentally or physically incapacitated to such an extent that proper custody, care, and control cannot be provided by the department, it shall make arrangements for placement outside the department.

(d) Before assigning an offender to a facility or program, the department shall give ~~him~~ **the offender** an opportunity to present pertinent information; discuss with ~~him~~ **the offender** all aspects of the evaluation, classification, and assignment process; and work with ~~him~~ **the offender** to determine a fair and appropriate assignment.

(e) The department shall assign an offender to a facility or program that is based on the offender's biological sex at birth in accordance with the offender's genetics and reproductive biology.

~~(e)~~ **(f)** If an offender is sentenced to a term of imprisonment of one (1) year or less, the department may make an assignment under this section without making the evaluation prescribed in section 2 of this chapter. In determining the length of an offender's term, consecutive terms of imprisonment shall be added together.

~~(f)~~ **(g)** This section does not prohibit the temporary assignment of an offender pending evaluation and classification.

SECTION 2. IC 11-10-2-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]: Sec. 5. (a) Upon completion of the evaluation prescribed in section 4 of this chapter, the department shall assign the offender to a facility or program; make an initial education, training, employment, or other assignment within that

facility or program; and order medical, psychiatric, psychological, or other services it considers appropriate. In making the assignment, the department shall, among other relevant information, consider:

(1) the results of the evaluation prescribed in section 4 of this chapter;

(2) the recommendations of the committing court;

(3) the offender's need for special therapy or programs, including education, training, or employment available only in specific facilities or programs;

(4) the degree and type of custodial control necessary for the protection of the public, staff, other committed offenders, and the individual being considered;

(5) the likelihood of the offender's reintegration into the community in which the facility or program is located;

(6) the desirability of keeping the offender in a facility or program near the area in which ~~he~~ **the offender** resided before commitment;

(7) the desires of the offender and ~~his~~ **the offender's** parents, guardian, or custodian;

(8) the current population levels of the facilities or programs considered appropriate for the offender; and

(9) the probable length of commitment.

(b) If the department determines that a committed offender is mentally or physically incapacitated to such an extent that proper custody, care, and control cannot be provided by the department, it shall make arrangements for placement outside the department.

(c) If an offender is found to be pregnant, the department may return her to the committing court for further disposition.

(d) Before assigning an offender to a facility or program, the department shall give ~~him~~ **the offender** an opportunity to present pertinent information, discuss with ~~him~~ **the offender** all aspects of the evaluation and assignment process, and work with ~~him~~ **the offender** to determine a fair and appropriate assignment.

(e) The department shall assign an offender to a facility or program that is based on the offender's biological sex at birth in accordance with the offender's genetics and reproductive biology.

~~(e)~~ **(f)** The department shall, by certified mail, return receipt requested, notify the parent, guardian, custodian, or nearest relative of any committed offender of ~~his~~ **the offender's** physical location and any change in that location.

~~(f)~~ **(g)** This section does not preclude the temporary assignment of an offender pending evaluation.