

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 ENROLLED ACT No. 1193

AN ACT to amend the Indiana Code concerning state offices and administration.

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

SECTION 1. IC 4-6-15-2, AS ADDED BY P.L.165-2021, SECTION 36, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) Except as provided in subsection (b), all political subdivisions shall be considered a party to any settlement, including a settlement in lieu of litigation, in opioid litigation by the attorney general with an opioid party that is finalized with court approval after March 1, 2021. Except as provided in subsection (b), political subdivisions shall be bound by the terms of any opioid litigation settlement imposed by a bankruptcy court or any other court of competent jurisdiction as accepted by the attorney general.

(b) A political subdivision that has filed opioid litigation on or before January 1, 2021, may opt out of the settlement described in this section and choose to pursue its own claims by submitting written documentation as prescribed in subsection (c) to the attorney general by June 30, 2021. Except as provided in subsection (d), any political subdivision that opts out and chooses to maintain its own lawsuit under this section shall have no claim to any state or political subdivision funds paid according to the settlement authorized or approved by the attorney general.

(c) A document submitted by a political subdivision under subsection (b) to opt out of the settlement shall include:

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- (1) the name of the political subdivision electing to opt out;
- (2) contact information for an individual at the political subdivision who can provide information regarding the decision to opt out; and
- (3) a certified copy of the resolution adopted by the political subdivision to opt out;

of the settlement.

(d) Notwithstanding subsection (b), a political subdivision may opt back in to a settlement by submission of:

- (1) the name of the political subdivision opting back in;
- (2) contact information for an individual at the political subdivision who can provide information regarding the decision to opt back in; and
- (3) a certified copy of the resolution adopted by the political subdivision to opt back in; and
- (4) a copy of the agreement that includes a term setting the amount of attorney's fees and costs owed to the private legal counsel executed between the private legal counsel of the political subdivision and the political subdivision that is opting back in;**

to the settlement to the attorney general by ~~the earlier of sixty (60) days after the political subdivision adopted a resolution to opt out of the settlement or September 30, 2021, whichever occurs first.~~ **July 15, 2022.**

(e) A political subdivision that has not made a choice to opt out or that has opted back in to the settlement is bound by full release, waiver, and dismissal of all claims against the opioid party.

~~(f) No political subdivision has any claim to any settlement proceeds for litigation against any opioid party not yet filed by the state as of the effective date of this chapter, as added by HEA 1001-2021.~~

SECTION 2. IC 4-6-15-3, AS ADDED BY P.L.165-2021, SECTION 36, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. ~~(a)~~ After January 1, 2021, no political subdivision shall initiate or file opioid litigation in any court.

~~(b) The state and each political subdivision shall be solely responsible for paying all costs, expenses, and attorney's fees arising from opioid litigation brought under their respective authorities, including any attorney's fees owed to private legal counsel, and may not seek payment for reimbursement of such costs, expenses, and attorney's fees from money to be used for treatment, education, and prevention programs for opioid use disorder and any co-occurring substance use disorder or mental health issues. Payment of attorney's fees may be~~



sought from specific attorney's fee, costs, and expenses funds set up by the settlement agreement:

SECTION 3. IC 4-6-15-4, AS ADDED BY P.L.165-2021, SECTION 36, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) Funds received from opioid litigation settlements that resolve existing state and political subdivision litigation lawsuits as of January 1, 2021, shall be distributed in the following manner:

(1) Fifteen percent (15%) to the agency settlement fund established by IC 4-12-16-2 for the benefit of the state.

(2) Fifteen percent (15%) to the agency settlement fund established by IC 4-12-16-2 for distribution to cities, counties, and towns on a per capita basis. For purposes of this subdivision, the population, as determined under IC 1-1-3.5-3(a), of a county is the aggregate population for all unincorporated areas of the county. **according to a weighted distribution formula identified in settlement documents that accounts for opioid impacts in communities.**

(3) ~~Seventy percent (70%)~~ **Thirty-five percent (35%)** to the agency settlement fund established by IC 4-12-16-2 to be used for statewide treatment, education, and prevention programs for opioid use disorder and any co-occurring substance use disorder or mental health issues as defined or required by the settlement documents or court order.

(4) **Thirty-five percent (35%) to the agency settlement fund established by IC 4-12-16-2 for distribution to cities, counties, and towns according to a weighted distribution formula identified in settlement documents that accounts for opioid impacts in communities. However, if a city's or town's annual distribution under this subdivision is less than one thousand dollars (\$1,000), the city's or town's annual distribution must instead be distributed to the county in which the city or town is located. Distributions under this subdivision may be used only for programs of treatment, prevention, and care that are best practices as defined or required by the settlement documents or court order.**

(b) ~~The amount amounts~~ distributed to the agency settlement fund under ~~subsection (a)(2)~~ is **subsection (a)(2) and (a)(4)** are annually appropriated to the office of the attorney general to make the distributions described under ~~subsection (a)(2)~~. **subsection (a)(2) and (a)(4).**

(c) **Funds received from the settlement may not be distributed**



to a city, county, or town that has opted out of the settlement under section 2(b) of this chapter. The settlement funds that are not distributed to the cities, counties, or towns that have opted out of the settlement must be distributed in the manner set forth under subsection (a)(2) and (a)(4) to the cities, counties, or towns that have opted into the settlement.

~~(e)~~ **(d)** The amount distributed to the agency settlement fund under subsection (a)(3) is annually appropriated to the office of the secretary of family and social services for treatment, education, and prevention programs for opioid use disorder and any co-occurring substance use disorder or mental health issues as defined or required by the settlement documents or court order. ~~The office of the secretary of family and social services shall allocate fifty percent (50%) of the funds received annually under this subsection to eligible community-based treatment, education, and prevention programs for opioid use disorder and any co-occurring substance use disorder or mental health issues. The office of the secretary of family and social services shall divide the state into regions based on population and ensure that funds are awarded to participating entities in each region of the state. Data from calendar years beginning after December 31, 2017, and ending before January 1, 2021, related to opioid use disorder during those calendar years, including overdoses and deaths, may be considered in the process of determining regional funding allocations under this subsection. The office of the secretary of family and social services may adopt rules under IC 4-22-2 to define the regions within the state and for determining a process for the application and awarding of funds. Before the remaining fifty percent (50%)~~ **thirty-five percent (35%)** of the funds received under this subsection may be distributed, the office of the secretary of family and social services shall submit a distribution plan to the budget committee for review.

~~(d)~~ **(e)** All entities receiving settlement funds to be used for treatment, education, and prevention programs for opioid use disorder and any co-occurring substance use disorder or mental health issues shall monitor the use of those funds and provide an annual report to the office of the secretary of family and social services not later than a date determined by the office of the secretary of family and social services.

~~(e)~~ **(f)** The office of the secretary of family and social services shall compile and submit an annual comprehensive report of the information received under subsection ~~(d)~~ **(e)** to the general assembly in an electronic format under IC 5-14-6 not later than October 1 of each year identifying all funds committed and used as specified by any settlement documents or court order.



SECTION 4. IC 4-6-15-5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 5. Before distributing funds to a city, county, or town that has opted back into a settlement under section 2(d) of this chapter, the budget agency shall:**

- (1) withhold from distribution to the city, county, or town the funds owed to the private legal counsel of the city, county, or town in the amount set forth in the agreement between the city, county, or town and private legal counsel; and**
- (2) distribute the attorney's fees and costs to the private legal counsel of the city, county, or town in the amount set forth in the agreement between the city, county, or town and private legal counsel.**

SECTION 5. An emergency is declared for this act.



Speaker of the House of Representatives

President of the Senate

President Pro Tempore

Governor of the State of Indiana

Date: _____ Time: _____

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