



February 15, 2019

## HOUSE BILL No. 1325

DIGEST OF HB 1325 (Updated February 14, 2019 10:29 am - DI 77)

**Citations Affected:** IC 16-18; IC 16-41; IC 34-30; IC 34-46; IC 35-31.5; IC 35-38; IC 35-45; IC 35-52.

**Synopsis:** Transmission of communicable diseases. Changes the following defined terms: (1) "carrier" to "individual with a communicable disease"; (2) "dangerous communicable disease" to "serious communicable disease"; and (3) "dangerous disease" to "serious disease". Specifies that an individual must intentionally meet all the delineated conditions to commit the offense of transmitting a communicable disease. Requires that for violations of the communicable disease laws: (1) an information or indictment alleging the violations be redacted in accordance with rules adopted by the Indiana supreme court; (2) the court close the proceedings; and; (3) the medical information of the parties is confidential. Removes the authority of a court to limit testing to a test only for human immunodeficiency virus (HIV) if the defendant is charged with battery or domestic battery involving placing bodily fluid or waste on another person. Removes certain references to AIDS. Repeals the crimes of: (1) recklessly, knowingly, or intentionally donating, selling, or transferring blood or semen for artificial insemination that contains HIV; and (2) infecting an individual through the act of donating, selling, or transferring blood or semen. Makes conforming changes. Makes a technical correction.

**Effective:** July 1, 2019.

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**Clere, Brown T, Shackelford, Cook**

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January 14, 2019, read first time and referred to Committee on Public Health.  
February 14, 2019, amended, reported — Do Pass.

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HB 1325—LS 7462/DI 77





February 15, 2019

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.

## HOUSE BILL No. 1325

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

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

1       SECTION 1. IC 16-18-2-49 IS REPEALED [EFFECTIVE JULY 1,  
2       2019]. Sec. 49: "Carrier", for purposes of IC 16-41, means a person  
3       who has:

- 4               (1) tuberculosis in a communicable stage; or  
5               (2) another dangerous communicable disease.

6       SECTION 2. IC 16-18-2-91 IS REPEALED [EFFECTIVE JULY 1,  
7       2019]. Sec. 91: "Dangerous communicable disease", for purposes of  
8       IC 16-41, means a communicable disease that is classified by the state  
9       department as dangerous under IC 16-41-2-1.

10       SECTION 3. IC 16-18-2-188.3 IS ADDED TO THE INDIANA  
11       CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
12       [EFFECTIVE JULY 1, 2019]: Sec. 188.3. "Individual with a  
13       communicable disease", for purposes of IC 16-41, means a person  
14       who has:

- 15               (1) tuberculosis in a communicable stage; or  
16               (2) another serious communicable disease.

17       SECTION 4. IC 16-18-2-194.5, AS ADDED BY P.L.138-2006,

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SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 194.5. "Isolation", for purposes of IC 16-41-9, means the physical separation, including confinement or restriction, of an individual or a group of individuals from the general public if the individual or group is infected with a ~~dangerous~~ **serious** communicable disease (as described in ~~IC 16-18-2-9~~ **IC 16-18-2-327.7** and 410 IAC 1-2.3-47), in order to prevent or limit the transmission of the disease to an uninfected individual.

SECTION 5. IC 16-18-2-288.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: **Sec. 288.1. "Practical means to prevent transmission", for purposes of IC 16-41-7-1, has the meaning set forth in IC 16-41-7-1.**

SECTION 6. IC 16-18-2-302.6, AS ADDED BY P.L.138-2006, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 302.6. "Quarantine", for purposes of IC 16-41-9, means the physical separation, including confinement or restriction of movement, of an individual or a group of individuals who have been exposed to a ~~dangerous~~ **serious** communicable disease (as described in ~~IC 16-18-2-9~~ **IC 16-18-2-327.7** and 410 IAC 1-2.3-47), during the disease's period of communicability, in order to prevent or limit the transmission of the disease to an uninfected individual.

SECTION 7. IC 16-18-2-327.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: **Sec. 327.7. "Serious communicable disease", for purposes of IC 16-41, means a communicable disease that is classified by the state department as dangerous under IC 16-41-2-1.**

SECTION 8. IC 16-41-3-1, AS AMENDED BY P.L.1-2006, SECTION 304, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 1. (a) The state department may adopt rules under IC 4-22-2 concerning the compilation for statistical purposes of information collected under IC 16-41-2.

(b) The state department shall adopt procedures to gather, monitor, and tabulate case reports of incidents involving ~~dangerous~~ **serious** communicable diseases or unnatural outbreaks of diseases known or suspected to be used as weapons. The state department shall specifically engage in medical surveillance, tabulation, and reporting of confirmed or suspected cases set forth by the Centers for Disease Control and Prevention of the United States Department of Health and Human Services and the United States Public Health Service of the United States Department of Health and Human Services.



(c) The state department shall notify the:

(1) department of homeland security;

(2) Indiana State Police; and

(3) county health department and local law enforcement agency  
having jurisdiction of each unnatural outbreak or reported case  
described in subsection (b);

as soon as possible after the state department receives a report under  
subsection (b). Notification under this subsection must be made not  
more than twenty-four (24) hours after receiving a report.

SECTION 9. IC 16-41-3-2 IS AMENDED TO READ AS  
FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 2. (a) The state  
department shall tabulate all case reports of tuberculosis and other  
~~dangerous~~ **serious** communicable diseases reported under this article  
or under rules adopted under this article. The state department shall  
determine the prevalence and distribution of disease in Indiana and  
devise methods for restricting and controlling disease.

(b) The state department shall include the information on the  
prevalence and distribution of tuberculosis and other ~~dangerous~~ **serious**  
communicable diseases in the state department's annual report.

(c) The state department shall disseminate the information prepared  
under this section.

(d) The state department shall develop capabilities and procedures  
to perform preliminary analysis and identification in as close to a real  
time basis as is scientifically possible of unknown bacterial substances  
that have been or may be employed as a weapon. The state department  
shall implement the developed capacity and procedures immediately  
after the state department achieves a Level B capability as determined  
by the Centers for Disease Control and Prevention of the United States  
Department of Health and Human Services and the United States  
Public Health Service of the United States Department of Health and  
Human Services.

SECTION 10. IC 16-41-5-2 IS AMENDED TO READ AS  
FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 2. The health officer  
may make an investigation of each ~~carrier of a dangerous individual~~  
**with a** communicable disease to determine whether the environmental  
conditions surrounding the ~~carrier individual~~ or the conduct of the  
~~carrier individual~~ requires intervention by the health officer or  
designated health official to prevent the spread of disease to others.

SECTION 11. IC 16-41-6-11 IS AMENDED TO READ AS  
FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 11. (a) The state  
department shall adopt rules under IC 4-22-2 that include procedures:

(1) to inform the woman of the test results under this chapter,



whether they are positive or negative;

(2) for explaining the side effects of any treatment for HIV if the test results under this chapter are positive; and

(3) to establish a process for a woman who tests positive under this chapter to appeal the woman's status on a waiting list on a treatment program for which the woman is eligible. The rule must:

(A) include a requirement that the state department make a determination in the process described in this subdivision not later than seventy-two (72) hours after the state department receives all the requested medical information; and

(B) set forth the necessary medical information that must be provided to the state department and reviewed by the state department in the process described in this subdivision.

(b) The state department shall maintain rules under IC 4-22-2 that set forth standards to provide to women who are pregnant, before delivery, at delivery, and after delivery, information concerning HIV. The rules must include:

(1) an explanation of the nature of AIDS and HIV;

(2) information concerning discrimination and legal protections;

(3) information concerning the duty to notify persons at risk as described in IC 16-41-7-1;

(4) information about risk behaviors for HIV transmission;

(5) information about the risk of transmission through breast feeding;

(6) notification that if the woman chooses not to be tested for HIV before delivery, at delivery the child will be tested subject to section 4 of this chapter;

(7) procedures for obtaining informed, written consent for testing under this chapter;

(8) procedures for post-test counseling by a health care provider when the test results are communicated to the woman, whether the results are positive or negative;

(9) procedures for referral for physical and emotional services if the test results are positive;

(10) procedures for explaining the importance of immediate entry into medical care if the test results are positive; and

(11) procedures for explaining that ~~giving birth by cesarean section may the use of antiretroviral drugs and other medical interventions~~ lessen the likelihood of passing on HIV to the child during childbirth. ~~especially when done in combination with medications; if the test results are positive.~~



SECTION 12. IC 16-41-7-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 1. (a) This section applies to the following ~~dangerous~~ **serious** communicable diseases:

(~~1~~) ~~Acquired immune deficiency syndrome (AIDS)~~;

(~~2~~) **(1)** Human immunodeficiency virus (HIV).

(~~3~~) **(2)** Hepatitis B.

(b) As used in this section, "high risk activity" means sexual or needle sharing contact that has been demonstrated epidemiologically, ~~to transmit as determined by the federal Centers for Disease Control and Prevention or other comparable epidemiological evidence, to bear a significant risk of transmitting a dangerous~~ **serious** communicable disease described in subsection (a).

(c) As used in this section, "person at risk" means:

(1) past and present sexual or needle sharing partners who may have engaged in high risk activity; or

(2) sexual or needle sharing partners before engaging in high risk activity;

with the ~~carrier of~~ **individual with a** ~~dangerous~~ **serious** communicable disease described in subsection (a).

(d) ~~Carriers~~ **Individuals with a communicable disease** who know of their status as a ~~carrier~~ **an individual with a** ~~of a dangerous~~ **serious** communicable disease described in subsection (a) have a duty to warn or cause to be warned by a third party a person at risk of the following:

(1) The ~~carrier's~~ **individual's** disease status.

(2) The need to seek health care such as counseling and testing.

(e) As used in this section, "practical means to prevent transmission" means any method, device, behavior, or activity demonstrated scientifically to measurably limit, reduce, or eliminate the risk of transmission of a communicable disease, including the use of a prophylactic device or adherence to an appropriate medical treatment regimen for the communicable disease as determined by a physician.

(f) An individual may not intentionally transmit a communicable disease described in subsection (a) to another person. An individual commits intentionally transmitting a communicable disease if all of the following conditions are met:

(1) The individual knows that the individual has a communicable disease described in subsection (a).

(2) The individual acts with the specific intent to transmit that communicable disease to another person.

(3) The individual engages in a high risk activity with the other person.



(4) The individual transmits the communicable disease to the other person.

(5) The other person was unaware that the individual had a communicable disease.

(g) An individual does not act with the specific intent required in subsection (f)(2) if the individual takes, or attempts to take, practical means to prevent transmission. However, the failure by an individual to use practical means to prevent transmission alone is not sufficient to prove the intent required under subsection (f)(2).

(h) A person does not violate subsection (f) for any of the following reasons:

(1) Becoming pregnant while having a communicable disease.

(2) Acquiring a communicable disease while pregnant.

(3) Continuing a pregnancy while having a communicable disease.

(4) Declining treatment for a communicable disease while pregnant.

SECTION 13. IC 16-41-7-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 2. (a) ~~A carrier~~ **An individual with a communicable disease** is a "serious and present danger to the health of others" under the following conditions:

(1) The ~~carrier individual~~ **individual** engages repeatedly in a behavior that has been demonstrated epidemiologically (as defined by rules adopted by the state department under IC 4-22-2) to transmit a ~~dangerous~~ **serious** communicable disease or that indicates a careless disregard for the transmission of the disease to others.

(2) The ~~carrier's individual's~~ **individual's** past behavior or statements indicate an imminent danger that the ~~carrier individual~~ **individual** will engage in behavior that transmits a ~~dangerous~~ **serious** communicable disease to others.

(3) The ~~carrier individual~~ **individual** has failed or refused to carry out the ~~carrier's individual's~~ **individual's** duty to warn under section 1 of this chapter.

(b) A person who has reasonable cause to believe that a person:

(1) is a serious and present danger to the health of others as described in subsection (a);

(2) has engaged in noncompliant behavior; or

(3) is suspected of being a person at risk (as described in section 1 of this chapter);

may report that information to a health officer.

(c) A person who makes a report under subsection (b) in good faith is not subject to liability in a civil, an administrative, a disciplinary, or a criminal action.





(d) A person who knowingly or recklessly makes a false report under subsection (b) is civilly liable for actual damages suffered by a person reported on and for punitive damages.

SECTION 14. IC 16-41-7-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 3. (a) A licensed physician who diagnoses, treats, or counsels a patient with a ~~dangerous~~ **serious** communicable disease shall inform the patient of the patient's duty under section 1 of this chapter.

(b) A physician described in subsection (a) may notify the following:

(1) A health officer if the physician has reasonable cause to believe that a patient:

(A) is a serious and present danger to the health of others as described in section 2(a) of this chapter;

(B) has engaged in noncompliant behavior; or

(C) is suspected of being a person at risk (as defined in section 1 of this chapter).

(2) A person at risk (as defined in section 1 of this chapter) or a person legally responsible for the patient if the physician:

(A) has medical verification that the patient is ~~a carrier~~; **an individual with a communicable disease**;

(B) knows the identity of the person at risk;

(C) has a reasonable belief of a significant risk of harm to the identified person at risk;

(D) has reason to believe the identified person at risk has not been informed and will not be informed of the risk by the patient or another person; and

(E) has made reasonable efforts to inform the ~~carrier~~ **individual** of the physician's intent to make or cause the state department of health to make a disclosure to the person at risk.

(c) A physician who notifies a person at risk under this section shall do the following:

(1) Identify the ~~dangerous~~ **serious** communicable disease.

(2) Inform the person of available health care measures such as counseling and testing.

(d) A physician who in good faith provides notification under this section is not subject to liability in a civil, an administrative, a disciplinary, or a criminal action.

(e) A patient's privilege with respect to a physician under IC 34-46-3-1 is waived regarding:

(1) notification under subsection (b); and

(2) information provided about a patient's noncompliant behavior



in an investigation or action under this chapter, IC 16-41-2, IC 16-41-3, IC 16-41-5, IC 16-41-6, IC 16-41-8, IC 16-41-9, IC 16-41-13, IC 16-41-14, and IC 16-41-16.

(f) A physician's immunity from liability under subsection (d) applies only to the provision of information reasonably calculated to protect an identified person who is at epidemiological risk of infection.

(g) A physician who notifies a person under this section is also required to satisfy the reporting requirements under IC 16-41-2-2 through IC 16-41-2-8.

SECTION 15. IC 16-41-7-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 4. (a) As used in this section, "person at risk" means an individual who in the best judgment of a licensed physician:

(1) has engaged in high risk activity (as defined in section 1 of this chapter); or

(2) is in imminent danger of engaging in high risk activity (as defined in section 1 of this chapter).

(b) If a health officer is notified in writing by a physician under section 3(b)(1)(A) of this chapter of a patient:

(1) for whom the physician has medical verification that the patient is ~~a carrier~~; **an individual with a communicable disease**; and

(2) who, in the best judgment of the physician, is a serious and present danger to the health of others;

the health officer shall make an investigation of the ~~carrier individual~~ as authorized in IC 16-41-5-2 to determine whether the environmental conditions surrounding the ~~carrier individual~~ or the conduct of the ~~carrier individual~~ requires the intervention by the health officer or designated health official to prevent the spread of disease to others.

(c) If the state department is requested in writing by a physician who has complied with the requirements of section 3(b)(2) of this chapter to notify a person at risk, the state department shall notify the person at risk unless, in the opinion of the state department, the person at risk:

(1) has already been notified;

(2) will be notified; or

(3) will otherwise be made aware that the person is a person at risk.

(d) The state department shall establish a confidential registry of all persons submitting written requests under subsection (c).

(e) The state department shall adopt rules under IC 4-22-2 to implement this section. Local health officers may submit advisory guidelines to the state department to implement this chapter,



IC 16-41-1, IC 16-41-3, IC 16-41-5, IC 16-41-8, or IC 16-41-9. The state department shall fully consider such advisory guidelines before adopting a rule under IC 4-22-2-29 implementing this chapter, IC 16-41-1, IC 16-41-3, IC 16-41-5, IC 16-41-8, or IC 16-41-9.

SECTION 16. IC 16-41-7-5, AS AMENDED BY P.L.158-2013, SECTION 240, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 5. (a) Except as provided in IC 35-45-21-3, a person who recklessly violates or fails to comply with this chapter commits a Class B misdemeanor.

(b) Each day a violation continues constitutes a separate offense.

(b) An information or indictment alleging a violation of this chapter shall be filed in accordance with rules adopted by the supreme court. All records related to a proceeding of the defendant described in this section shall be redacted so that it does not include the defendant's name (in the same manner that cases involving juveniles are redacted):

(1) permanently, if the defendant is not convicted of the offense; or

(2) until the court enters a judgment of conviction, if the defendant is convicted of the offense.

(c) Unless the defendant objects, the court shall close any proceeding in which there is a possibility that identifying information (as defined in IC 35-43-5-1) of the defendant will be disclosed and prohibit every person present during a closed proceeding from disclosing identifying information of the defendant until the conclusion of the trial.

(d) Confidentiality of the medical information of the complainant and the individual accused shall be maintained as required by IC 16-41-8-1.

SECTION 17. IC 16-41-8-1, AS AMENDED BY P.L.65-2016, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 1. (a) As used in this chapter, "potentially disease transmitting offense" means any of the following:

(1) Battery (IC 35-42-2-1) or domestic battery (IC 35-42-2-1.3) involving placing a bodily fluid or waste on another person.

(2) An offense relating to a criminal sexual act (as defined in IC 35-31.5-2-216), if sexual intercourse or other sexual conduct (as defined in IC 35-31.5-2-221.5) occurred.

The term includes an attempt to commit an offense, if sexual intercourse or other sexual conduct (as defined in IC 35-31.5-2-221.5) occurred, and a delinquent act that would be a crime if committed by an adult.



(b) Except as provided in this chapter, a person may not disclose or be compelled to disclose medical or epidemiological information involving a communicable disease or other disease that is a danger to health (as defined under rules adopted under IC 16-41-2-1). This information may not be released or made public upon subpoena or otherwise, except under the following circumstances:

(1) Release may be made of medical or epidemiologic information for statistical purposes if done in a manner that does not identify an individual.

(2) Release may be made of medical or epidemiologic information with the written consent of all individuals identified in the information released.

(3) Release may be made of medical or epidemiologic information to the extent necessary to enforce public health laws, laws described in IC 31-37-19-4 through IC 31-37-19-6, IC 31-37-19-9 through IC 31-37-19-10, IC 31-37-19-12 through IC 31-37-19-23, **and** IC 35-38-1-7.1 **and** ~~IC 35-45-21-1~~ or to protect the health or life of a named party.

(4) Release may be made of the medical information of a person in accordance with this chapter.

(c) Except as provided in this chapter, a person responsible for recording, reporting, or maintaining information required to be reported under IC 16-41-2 who recklessly, knowingly, or intentionally discloses or fails to protect medical or epidemiologic information classified as confidential under this section commits a Class A misdemeanor.

(d) In addition to subsection (c), a public employee who violates this section is subject to discharge or other disciplinary action under the personnel rules of the agency that employs the employee.

(e) Release shall be made of the medical records concerning an individual to:

(1) the individual;

(2) a person authorized in writing by the individual to receive the medical records; or

(3) a coroner under IC 36-2-14-21.

(f) An individual may voluntarily disclose information about the individual's communicable disease.

(g) The provisions of this section regarding confidentiality apply to information obtained under IC 16-41-1 through IC 16-41-16.

SECTION 18. IC 16-41-8-5, AS AMENDED BY P.L.65-2016, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 5. (a) This section does not apply to medical testing of an individual for whom an indictment or information is filed



for a sex crime and for whom a request to have the individual tested under section 6 of this chapter is filed.

(b) The following definitions apply throughout this section:

(1) "Bodily fluid" means blood, human waste, or any other bodily fluid.

(2) ~~"Dangerous~~ **"Serious** disease" means any of the following:

(A) Chancroid.

(B) Chlamydia.

(C) Gonorrhea.

(D) Hepatitis.

(E) Human immunodeficiency virus (HIV).

(F) Lymphogranuloma venereum.

(G) Syphilis.

(H) Tuberculosis.

(3) "Offense involving the transmission of a bodily fluid" means any offense (including a delinquent act that would be a crime if committed by an adult) in which a bodily fluid is transmitted from the defendant to the victim in connection with the commission of the offense.

(c) This subsection applies only to a defendant who has been charged with a potentially disease transmitting offense. At the request of an alleged victim of the offense, the parent, guardian, or custodian of an alleged victim who is less than eighteen (18) years of age, or the parent, guardian, or custodian of an alleged victim who is an endangered adult (as defined in IC 12-10-3-2), the prosecuting attorney shall petition a court to order a defendant charged with the commission of a potentially disease transmitting offense to submit to a screening test to determine whether the defendant is infected with a ~~dangerous~~ **serious** disease. In the petition, the prosecuting attorney must set forth information demonstrating that the defendant has committed a potentially disease transmitting offense. The court shall set the matter for hearing not later than forty-eight (48) hours after the prosecuting attorney files a petition under this subsection. The alleged victim, the parent, guardian, or custodian of an alleged victim who is less than eighteen (18) years of age, and the parent, guardian, or custodian of an alleged victim who is an endangered adult (as defined in IC 12-10-3-2) are entitled to receive notice of the hearing and are entitled to attend the hearing. The defendant and the defendant's counsel are entitled to receive notice of the hearing and are entitled to attend the hearing. If, following the hearing, the court finds probable cause to believe that the defendant has committed a potentially disease transmitting offense, the court may order the defendant to submit to a screening test for one (1)



1 or more ~~dangerous serious~~ diseases. If the defendant is charged with  
 2 battery (IC 35-42-2-1) or domestic battery (IC 35-42-2-1.3) involving  
 3 placing a bodily fluid or waste on another person, the court may limit  
 4 testing under this subsection to a test only for human  
 5 immunodeficiency virus (HIV). However, the court may order  
 6 additional testing for human immunodeficiency virus (HIV) as may be  
 7 medically appropriate. The court shall take actions to ensure the  
 8 confidentiality of evidence introduced at the hearing.

9 (d) This subsection applies only to a defendant who has been  
 10 charged with an offense involving the transmission of a bodily fluid. At  
 11 the request of an alleged victim of the offense, the parent, guardian, or  
 12 custodian of an alleged victim who is less than eighteen (18) years of  
 13 age, or the parent, guardian, or custodian of an alleged victim who is  
 14 an endangered adult (as defined in IC 12-10-3-2), the prosecuting  
 15 attorney shall petition a court to order a defendant charged with the  
 16 commission of an offense involving the transmission of a bodily fluid  
 17 to submit to a screening test to determine whether the defendant is  
 18 infected with a ~~dangerous serious~~ disease. In the petition, the  
 19 prosecuting attorney must set forth information demonstrating that:

20 (1) the defendant has committed an offense; and

21 (2) a bodily fluid was transmitted from the defendant to the victim  
 22 in connection with the commission of the offense.

23 The court shall set the matter for hearing not later than forty-eight (48)  
 24 hours after the prosecuting attorney files a petition under this  
 25 subsection. The alleged victim of the offense, the parent, guardian, or  
 26 custodian of an alleged victim who is less than eighteen (18) years of  
 27 age, and the parent, guardian, or custodian of an alleged victim who is  
 28 an endangered adult (as defined in IC 12-10-3-2) are entitled to receive  
 29 notice of the hearing and are entitled to attend the hearing. The  
 30 defendant and the defendant's counsel are entitled to receive notice of  
 31 the hearing and are entitled to attend the hearing. If, following the  
 32 hearing, the court finds probable cause to believe that the defendant has  
 33 committed an offense and that a bodily fluid was transmitted from the  
 34 defendant to the alleged victim in connection with the commission of  
 35 the offense, the court may order the defendant to submit to a screening  
 36 test for one (1) or more ~~dangerous serious~~ diseases. If the defendant is  
 37 charged with battery (IC 35-42-2-1) or domestic battery (IC  
 38 35-42-2-1.3) involving placing bodily fluid or waste on another person,  
 39 the court may limit testing under this subsection to a test only for  
 40 human immunodeficiency virus (HIV). However, the court may order  
 41 additional testing for human immunodeficiency virus (HIV) as may be  
 42 medically appropriate. The court shall take actions to ensure the



1 confidentiality of evidence introduced at the hearing.

2 (e) The testimonial privileges applying to communication between  
3 a husband and wife and between a health care provider and the health  
4 care provider's patient are not sufficient grounds for not testifying or  
5 providing other information at a hearing conducted in accordance with  
6 this section.

7 (f) A health care provider (as defined in IC 16-18-2-163) who  
8 discloses information that must be disclosed to comply with this  
9 section is immune from civil and criminal liability under Indiana  
10 statutes that protect patient privacy and confidentiality.

11 (g) The results of a screening test conducted under this section shall  
12 be kept confidential if the defendant ordered to submit to the screening  
13 test under this section has not been convicted of the potentially disease  
14 transmitting offense or offense involving the transmission of a bodily  
15 fluid with which the defendant is charged. The results may not be made  
16 available to any person or public or private agency other than the  
17 following:

18 (1) The defendant and the defendant's counsel.

19 (2) The prosecuting attorney.

20 (3) The department of correction or the penal facility, juvenile  
21 detention facility, or secure private facility where the defendant  
22 is housed.

23 (4) The alleged victim or the parent, guardian, or custodian of an  
24 alleged victim who is less than eighteen (18) years of age, or the  
25 parent, guardian, or custodian of an alleged victim who is an  
26 endangered adult (as defined in IC 12-10-3-2), and the alleged  
27 victim's counsel.

28 The results of a screening test conducted under this section may not be  
29 admitted against a defendant in a criminal proceeding or against a child  
30 in a juvenile delinquency proceeding.

31 (h) As soon as practicable after a screening test ordered under this  
32 section has been conducted, the alleged victim or the parent, guardian,  
33 or custodian of an alleged victim who is less than eighteen (18) years  
34 of age, or the parent, guardian, or custodian of an alleged victim who  
35 is an endangered adult (as defined in IC 12-10-3-2), and the victim's  
36 counsel shall be notified of the results of the test.

37 (i) An alleged victim may disclose the results of a screening test to  
38 which a defendant is ordered to submit under this section to an  
39 individual or organization to protect the health and safety of or to seek  
40 compensation for:

41 (1) the alleged victim;

42 (2) the alleged victim's sexual partner; or



(3) the alleged victim's family.

(j) The court shall order a petition filed and any order entered under this section sealed.

(k) A person that knowingly or intentionally:

(1) receives notification or disclosure of the results of a screening test under this section; and

(2) discloses the results of the screening test in violation of this section;

commits a Class B misdemeanor.

SECTION 19, IC 16-41-9-1.5, AS AMENDED BY P.L.109-2015, SECTION 39, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 1.5. (a) If a public health authority has reason to believe that:

(1) an individual:

(A) has been infected with; or

(B) has been exposed to;

a ~~dangerous~~ **serious** communicable disease or outbreak; and

(2) the individual is likely to cause the infection of an uninfected individual if the individual is not restricted in the individual's ability to come into contact with an uninfected individual;

the public health authority may petition a circuit or superior court for an order imposing isolation or quarantine on the individual. A petition for isolation or quarantine filed under this subsection must be verified and include a brief description of the facts supporting the public health authority's belief that isolation or quarantine should be imposed on an individual, including a description of any efforts the public health authority made to obtain the individual's voluntary compliance with isolation or quarantine before filing the petition.

(b) Except as provided in subsections (e) and (k), an individual described in subsection (a) is entitled to notice and an opportunity to be heard, in person or by counsel, before a court issues an order imposing isolation or quarantine. A court may restrict an individual's right to appear in person if the court finds that the individual's personal appearance is likely to expose an uninfected person to a ~~dangerous~~ **serious** communicable disease or outbreak.

(c) If an individual is restricted from appearing in person under subsection (b), the court shall hold the hearing in a manner that allows all parties to fully and safely participate in the proceedings under the circumstances.

(d) If the public health authority proves by clear and convincing evidence that:

(1) an individual has been infected or exposed to a ~~dangerous~~





1           **serious** communicable disease or outbreak; and

2           (2) the individual is likely to cause the infection of an uninfected  
3           individual if the individual is not restricted in the individual's  
4           ability to come into contact with an uninfected individual;

5           the court may issue an order imposing isolation or quarantine on the  
6           individual. The court shall establish the conditions of isolation or  
7           quarantine, including the duration of isolation or quarantine. The court  
8           shall impose the least restrictive conditions of isolation or quarantine  
9           that are consistent with the protection of the public.

10          (e) If the public health authority has reason to believe that an  
11          individual described in subsection (a) is likely to expose an uninfected  
12          individual to a ~~dangerous~~ **serious** communicable disease or outbreak  
13          before the individual described in subsection (a) can be provided with  
14          notice and an opportunity to be heard, the public health authority may  
15          seek in a circuit or superior court an emergency order of quarantine or  
16          isolation by filing a verified petition for emergency quarantine or  
17          isolation. The verified petition must include a brief description of the  
18          facts supporting the public health authority's belief that:

19               (1) isolation or quarantine should be imposed on an individual;  
20               and

21               (2) the individual described in subsection (a) may expose an  
22               uninfected individual to a ~~dangerous~~ **serious** communicable  
23               disease or outbreak before the individual described in subsection  
24               (a) can be provided with notice and an opportunity to be heard.

25          The verified petition must include a description of any efforts the  
26          public health authority made to obtain the individual's voluntary  
27          compliance with isolation or quarantine before filing the petition.

28          (f) If the public health authority proves by clear and convincing  
29          evidence that:

30               (1) an individual has been infected or exposed to a ~~dangerous~~  
31               **serious** communicable disease or outbreak;

32               (2) the individual is likely to cause the infection of an uninfected  
33               individual if the individual is not restricted in the individual's  
34               ability to come into contact with an uninfected individual; and

35               (3) the individual may expose an uninfected individual to a  
36               ~~dangerous~~ **serious** communicable disease or outbreak before the  
37               individual can be provided with notice and an opportunity to be  
38               heard;

39          the court may issue an emergency order imposing isolation or  
40          quarantine on the individual. The court shall establish the duration and  
41          other conditions of isolation or quarantine. The court shall impose the  
42          least restrictive conditions of isolation or quarantine that are consistent



1 with the protection of the public.

2 (g) A court may issue an emergency order of isolation or quarantine  
3 without the verified petition required under subsection (e) if the court  
4 receives sworn testimony of the same facts required in the verified  
5 petition:

- 6 (1) in a nonadversarial, recorded hearing before the judge;  
7 (2) orally by telephone or radio;  
8 (3) in writing by facsimile transmission (fax); or  
9 (4) through other electronic means approved by the court.

10 If the court agrees to issue an emergency order of isolation or  
11 quarantine based upon information received under subdivision (2), the  
12 court shall direct the public health authority to sign the judge's name  
13 and to write the time and date of issuance on the proposed emergency  
14 order. If the court agrees to issue an emergency order of isolation or  
15 quarantine based upon information received under subdivision (3), the  
16 court shall direct the public health authority to transmit a proposed  
17 emergency order to the court, which the court shall sign, add the date  
18 of issuance, and transmit back to the public health authority. A court  
19 may modify the conditions of a proposed emergency order.

20 (h) If an emergency order of isolation or quarantine is issued under  
21 subsection (g)(2), the court shall record the conversation on audiotape  
22 and order the court reporter to type or transcribe the recording for entry  
23 in the record. The court shall certify the audiotape, the transcription,  
24 and the order retained by the judge for entry in the record.

25 (i) If an emergency order of isolation or quarantine is issued under  
26 subsection (g)(3), the court shall order the court reporter to retype or  
27 copy the facsimile transmission for entry in the record. The court shall  
28 certify the transcription or copy and order retained by the judge for  
29 entry in the record.

30 (j) The clerk shall notify the public health authority who received an  
31 emergency order under subsection (g)(2) or (g)(3) when the  
32 transcription or copy required under this section is entered in the  
33 record. The public health authority shall sign the typed, transcribed, or  
34 copied entry upon receiving notice from the court reporter.

35 (k) The public health authority may issue an immediate order  
36 imposing isolation or quarantine on an individual if exigent  
37 circumstances, including the number of affected individuals, exist that  
38 make it impracticable for the public health authority to seek an order  
39 from a court, and obtaining the individual's voluntary compliance is or  
40 has proven impracticable or ineffective. An immediate order of  
41 isolation or quarantine expires after seventy-two (72) hours, excluding  
42 Saturdays, Sundays, and legal holidays, unless renewed in accordance



1 with subsection (l). The public health authority shall establish the other  
 2 conditions of isolation or quarantine. The public health authority shall  
 3 impose the least restrictive conditions of isolation or quarantine that are  
 4 consistent with the protection of the public. If the immediate order  
 5 applies to a group of individuals and it is impracticable to provide  
 6 individual notice, the public health authority shall post a copy of the  
 7 order where it is likely to be seen by individuals subject to the order.

8 (l) The public health authority may seek to renew an order of  
 9 isolation or quarantine or an immediate order of isolation or quarantine  
 10 issued under this section by doing the following:

11 (1) By filing a petition to renew the emergency order of isolation  
 12 or quarantine or the immediate order of isolation or quarantine  
 13 with:

14 (A) the court that granted the emergency order of isolation or  
 15 quarantine; or

16 (B) a circuit or superior court, in the case of an immediate  
 17 order.

18 The petition for renewal must include a brief description of the  
 19 facts supporting the public health authority's belief that the  
 20 individual who is the subject of the petition should remain in  
 21 isolation or quarantine and a description of any efforts the public  
 22 health authority made to obtain the individual's voluntary  
 23 compliance with isolation or quarantine before filing the petition.

24 (2) By providing the individual who is the subject of the  
 25 emergency order of isolation or quarantine or the immediate order  
 26 of isolation or quarantine with a copy of the petition and notice of  
 27 the hearing at least twenty-four (24) hours before the time of the  
 28 hearing.

29 (3) By informing the individual who is the subject of the  
 30 emergency order of isolation or quarantine or the immediate order  
 31 of isolation or quarantine that the individual has the right to:

32 (A) appear, unless the court finds that the individual's personal  
 33 appearance may expose an uninfected person to a ~~dangerous~~  
 34 **serious** communicable disease or outbreak;

35 (B) cross-examine witnesses; and

36 (C) counsel, including court appointed counsel in accordance  
 37 with subsection (c).

38 (4) If:

39 (A) the petition applies to a group of individuals; and

40 (B) it is impracticable to provide individual notice;

41 by posting the petition in a conspicuous location on the isolation  
 42 or quarantine premises.



(m) If the public health authority proves by clear and convincing evidence at a hearing under subsection (l) that:

(1) an individual has been infected or exposed to a ~~dangerous~~ **serious** communicable disease or outbreak; and

(2) the individual is likely to cause the infection of an uninfected individual if the individual is not restricted in the individual's ability to come into contact with an uninfected individual;

the court may renew the existing order of isolation or quarantine or issue a new order imposing isolation or quarantine on the individual. The court shall establish the conditions of isolation or quarantine, including the duration of isolation or quarantine. The court shall impose the least restrictive conditions of isolation or quarantine that are consistent with the protection of the public.

(n) Unless otherwise provided by law, a petition for isolation or quarantine, or a petition to renew an immediate order for isolation or quarantine, may be filed in a circuit or superior court in any county. Preferred venue for a petition described in this subsection is:

(1) the county or counties (if the area of isolation or quarantine includes more than one (1) county) where the individual, premises, or location to be isolated or quarantined is located; or

(2) a county adjacent to the county or counties (if the area of isolation or quarantine includes more than one (1) county) where the individual, premises, or location to be isolated or quarantined is located.

This subsection does not preclude a change of venue for good cause shown.

(o) Upon the motion of any party, or upon its own motion, a court may consolidate cases for a hearing under this section if:

(1) the number of individuals who may be subject to isolation or quarantine, or who are subject to isolation or quarantine, is so large as to render individual participation impractical;

(2) the law and the facts concerning the individuals are similar; and

(3) the individuals have similar rights at issue.

A court may appoint an attorney to represent a group of similarly situated individuals if the individuals can be adequately represented. An individual may retain his or her own counsel or proceed pro se.

(p) A public health authority that imposes a quarantine that is not in the person's home:

(1) shall allow the parent or guardian of a child who is quarantined under this section; and

(2) may allow an adult;



1 to remain with the quarantined individual in quarantine. As a condition  
 2 of remaining with the quarantined individual, the public health  
 3 authority may require a person described in subdivision (2) who has not  
 4 been exposed to a ~~dangerous~~ **serious** communicable disease to receive  
 5 an immunization or treatment for the disease or condition, if an  
 6 immunization or treatment is available and if requiring immunization  
 7 or treatment does not violate a constitutional right.

8 (q) If an individual who is quarantined under this section is the sole  
 9 parent or guardian of one (1) or more children who are not quarantined,  
 10 the child or children shall be placed in the residence of a relative,  
 11 friend, or neighbor of the quarantined individual until the quarantine  
 12 period has expired. Placement under this subsection must be in  
 13 accordance with the directives of the parent or guardian, if possible.

14 (r) State and local law enforcement agencies shall cooperate with  
 15 the public health authority in enforcing an order of isolation or  
 16 quarantine.

17 (s) The court shall appoint an attorney to represent an indigent  
 18 individual in an action brought under this chapter or under IC 16-41-6.  
 19 If funds to pay for the court appointed attorney are not available from  
 20 any other source, the state department may use the proceeds of a grant  
 21 or loan to reimburse the county, state, or attorney for the costs of  
 22 representation.

23 (t) A person who knowingly or intentionally violates a condition of  
 24 isolation or quarantine under this chapter commits violating quarantine  
 25 or isolation, a Class A misdemeanor.

26 (u) The state department shall adopt rules under IC 4-22-2 to  
 27 implement this section, including rules to establish guidelines for:

- 28 (1) voluntary compliance with isolation and quarantine;
- 29 (2) quarantine locations and logistical support; and
- 30 (3) moving individuals to and from a quarantine location.

31 The absence of rules adopted under this subsection does not preclude  
 32 the public health authority from implementing any provision of this  
 33 section.

34 SECTION 20. IC 16-41-9-1.7, AS ADDED BY P.L.138-2006,  
 35 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 36 JULY 1, 2019]: Sec. 1.7. (a) An immunization program established by  
 37 a public health authority to combat a public health emergency  
 38 involving a ~~dangerous~~ **serious** communicable disease must comply  
 39 with the following:

- 40 (1) The state department must develop and distribute or post
- 41 information concerning the risks and benefits of immunization.
- 42 (2) No person may be required to receive an immunization



without that person's consent. No child may be required to receive an immunization without the consent of the child's parent, guardian, or custodian. The state department may implement the procedures described in section 1.5 of this chapter concerning a person who refuses to receive an immunization or the child of a parent, guardian, or custodian who refuses to consent to the child receiving an immunization.

(b) The state department shall adopt rules to implement this section. The absence of rules adopted under this subsection does not preclude the public health authority from implementing any provision of this section.

SECTION 21. IC 16-41-9-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 3. (a) The local health officer may exclude from school a student who has a ~~dangerous~~ **serious** communicable disease that:

- (1) is transmissible through normal school contacts; and
- (2) poses a substantial threat to the health and safety of the school community.

(b) If the local health officer subsequently determines that a student who has been excluded from school under subsection (a) does not have a ~~dangerous~~ **serious** communicable disease that:

- (1) is transmissible through normal school contacts; and
- (2) poses a substantial threat to the health and safety of the school community;

the local health officer shall issue a certificate of health to admit or readmit the student to school.

(c) A person who objects to the determination made by the local health officer under this section may appeal to the executive board of the state department, which is the ultimate authority. IC 4-21.5 applies to proceedings under this section.

SECTION 22. IC 16-41-9-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 5. (a) If a designated health official determines that a ~~carrier~~ **an individual with a communicable disease** has a ~~dangerous~~ **serious** communicable disease and has reasonable grounds to believe that the ~~carrier individual~~ is mentally ill and either dangerous or gravely disabled, the designated health official may request:

- (1) immediate detention under IC 12-26-4; or
- (2) emergency detention under IC 12-26-5;

for the purpose of having the ~~carrier individual~~ **carrier individual** apprehended, detained, and examined. The designated health official may provide to the superintendent of the psychiatric hospital or center or the attending



1 physician information about the ~~carrier's individual's~~ communicable  
 2 disease status. Communications under this subsection do not constitute  
 3 a breach of confidentiality.

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

9 (c) If the written report required under IC 12-26-5-5 states there is  
 10 not probable cause to believe the ~~carrier individual with a~~  
 11 **communicable disease** is mentally ill and either dangerous or gravely  
 12 disabled and requires continuing care and treatment, the ~~carrier~~  
 13 **individual** shall be referred to the designated health official who may  
 14 take action under this article.

15 SECTION 23. IC 16-41-9-6 IS AMENDED TO READ AS  
 16 FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 6. (a) The chief medical  
 17 officer of a hospital or other institutional facility may direct that a  
 18 ~~carrier an individual with a communicable disease~~ detained under  
 19 this article be placed apart from the others and restrained from leaving  
 20 the facility. ~~A carrier~~ **An individual with a communicable disease**  
 21 detained under this article shall observe all the rules of the facility or  
 22 is subject to further action before the committing court.

23 (b) ~~A carrier~~ **An individual with a communicable disease** detained  
 24 under this article who leaves a tuberculosis hospital or other  
 25 institutional facility without being authorized to leave or who fails to  
 26 return from an authorized leave without having been formally  
 27 discharged is considered absent without leave.

28 (c) The sheriff of the county in which ~~a carrier an individual with~~  
 29 **a communicable disease** referred to in subsection (b) is found shall  
 30 apprehend the ~~carrier individual~~ and return the ~~carrier individual~~ to  
 31 the facility at which the ~~carrier individual~~ was being detained upon  
 32 written request of the superintendent of the facility. Expenses incurred  
 33 under this section are treated as expenses described in section 13 of  
 34 this chapter.

35 SECTION 24. IC 16-41-9-7 IS AMENDED TO READ AS  
 36 FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 7. (a) ~~A carrier~~ **An**  
 37 **individual with a communicable disease** who:

- 38 (1) poses a serious and present danger to the health of others;
- 39 (2) has been voluntarily admitted to a hospital or other facility for  
 40 the treatment of tuberculosis or another ~~dangerous serious~~  
 41 communicable disease; and
- 42 (3) who leaves the facility without authorized leave or against



1 medical advice or who fails to return from authorized leave;  
 2 shall be reported to a health officer by the facility not more than  
 3 twenty-four (24) hours after discovery of the ~~carrier's~~ **individual's**  
 4 absence.

5 (b) If a health officer fails or refuses to institute or complete  
 6 necessary legal measures to prevent a health threat (as defined in  
 7 IC 16-41-7-2) by the ~~carrier~~, **individual**, the case shall be referred to  
 8 a designated health official for appropriate action under this article.

9 SECTION 25. IC 16-41-9-8, AS AMENDED BY P.L.1-2007,  
 10 SECTION 139, IS AMENDED TO READ AS FOLLOWS  
 11 [EFFECTIVE JULY 1, 2019]: Sec. 8. (a) A local health officer may file  
 12 a report with the court that states that ~~a carrier~~ **an individual with a**  
 13 **communicable disease** who has been detained under this article may  
 14 be discharged without danger to the health or life of others.

15 (b) The court may enter an order of release based on information  
 16 presented by the local health officer or other sources.

17 SECTION 26. IC 16-41-9-9 IS AMENDED TO READ AS  
 18 FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 9. (a) Not more than  
 19 thirty (30) days after the proposed release from a state penal institution  
 20 of a prisoner who is known to have:

21 (1) tuberculosis in a communicable stage; or

22 (2) ~~other dangerous~~ **another serious** communicable disease;  
 23 the chief administrative officer of the penal institution shall report to  
 24 the state department the name, address, age, sex, and date of release of  
 25 the prisoner.

26 (b) The state department shall provide the information furnished the  
 27 state department under subsection (a) to the health officer having  
 28 jurisdiction over the prisoner's destination address.

29 (c) Each health officer where the prisoner may be found has  
 30 jurisdiction over the released prisoner.

31 SECTION 27. IC 16-41-9-10 IS AMENDED TO READ AS  
 32 FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 10. (a) The  
 33 administrator of a hospital or other facility for the treatment of  
 34 tuberculosis or other ~~dangerous~~ **serious** communicable disease may  
 35 transfer or authorize the transfer of a nonresident indigent ~~carrier~~  
 36 **individual with a communicable disease** to the ~~carrier's individual's~~  
 37 state or county of legal residence if the ~~carrier individual~~ is able to  
 38 travel. If the ~~carrier individual with a communicable disease~~ is  
 39 unable to travel, the administrator may have the ~~carrier individual~~  
 40 hospitalized until the ~~carrier individual~~ is able to travel.

41 (b) Costs for the travel and hospitalization authorized by this section  
 42 shall be paid by the:





- (1) ~~carrier individual~~ under section 13 of this chapter; or  
 (2) state department if the ~~carrier individual with a communicable disease~~ cannot pay the full cost.

SECTION 28. IC 16-41-9-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 12. (a) The superintendent or the chief executive officer of the facility to which a ~~carrier~~ **an individual with a communicable disease** has been ordered under this chapter may decline to admit a patient if the superintendent or chief executive officer determines that there is not available adequate space, treatment staff, or treatment facilities appropriate to the needs of the patient.

(b) The state department may commence an action under IC 4-21.5-3-6 or IC 4-21.5-4 for issuance of an order of compliance and a civil penalty not to exceed one thousand dollars (\$1,000) per violation per day against a person who:

- (1) fails to comply with IC 16-41-1 through IC 16-41-3, IC 16-41-5 through IC 16-41-9, IC 16-41-13, IC 16-41-14, or IC 16-41-16 or a rule adopted under these chapters; or  
 (2) interferes with or obstructs the state department or the state department's designated agent in the performance of official duties under IC 16-41-1 through IC 16-41-3, IC 16-41-5 through IC 16-41-9, IC 16-41-13, IC 16-41-14, or IC 16-41-16 or a rule adopted under these chapters.

(c) The state department may commence an action against a facility licensed by the state department under either subsection (b) or the licensure statute for that facility, but the state department may not bring an action arising out of one (1) incident under both statutes.

SECTION 29. IC 16-41-9-13, AS AMENDED BY P.L.138-2006, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 13. (a) The court shall determine what part of the cost of care or treatment ordered by the court, if any, the ~~carrier individual with a communicable disease~~ can pay and whether there are other available sources of public or private funding responsible for payment of the ~~carrier's individual's~~ care or treatment. The ~~carrier individual with a communicable disease~~ shall provide the court documents and other information necessary to determine financial ability. If the ~~carrier individual with a communicable disease~~ cannot pay the full cost of care and other sources of public or private funding responsible for payment of the ~~carrier's individual's~~ care or treatment are not available, the county is responsible for the cost. If the ~~carrier individual with a communicable disease~~:

- (1) provides inaccurate or misleading information; or



(2) later becomes able to pay the full cost of care;  
the ~~carrier~~ **individual** becomes liable to the county for costs paid by the county.

(b) Except as provided in subsections (c) and (d), the costs incurred by the county under this chapter are limited to the costs incurred under section 1.5 of this chapter.

(c) However, subsection (b) does not relieve the county of the responsibility for the costs of ~~a carrier~~ **an individual with a communicable disease** who is ordered by the court under this chapter to a county facility.

(d) Costs, other than costs described in subsections (b) and (c) that are incurred by the county for care ordered by the court under this chapter, shall be reimbursed by the state under IC 16-21-7 to the extent funds have been appropriated for reimbursement.

SECTION 30. IC 16-41-9-15, AS ADDED BY P.L.16-2009, SECTION 26, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 15. In carrying out its duties under this chapter, a public health authority shall attempt to seek the cooperation of cases, ~~carriers,~~ **individuals with a communicable disease**, contacts, or suspect cases to implement the least restrictive but medically necessary procedures to protect the public health.

SECTION 31. IC 16-41-10-2, AS AMENDED BY P.L.131-2018, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 2. (a) This section applies to the following:

(1) An emergency medical services provider who is exposed to blood and body fluids while providing emergency medical services to a patient.

(2) A law enforcement officer who is exposed to blood and body fluids while performing the law enforcement officer's official duties.

(b) An emergency medical services provider or a law enforcement officer may request notification concerning exposure to a ~~dangerous~~ **serious** communicable disease under this chapter if the exposure is of a type that has been demonstrated epidemiologically to transmit a ~~dangerous~~ **serious** communicable disease.

(c) If an emergency medical services provider or a law enforcement officer desires to be notified of results of testing following a possible exposure to a ~~dangerous~~ **serious** communicable disease under this chapter, the emergency medical services provider or law enforcement officer shall notify the emergency medical services provider's or law enforcement officer's employer not more than twenty-four (24) hours after the emergency medical services provider or law enforcement



officer is exposed on a form that is prescribed by the state department and the Indiana emergency medical services commission.

(d) The emergency medical services provider or law enforcement officer shall distribute a copy of the completed form required under subsection (c) to the following:

(1) If applicable, the medical director of the emergency department of the medical facility:

(A) to which the patient was admitted following the exposure; or

(B) in which the patient was located at the time of the exposure.

(2) The emergency medical services provider's or law enforcement officer's employer.

(3) The state department.

SECTION 32. IC 16-41-10-2.5, AS AMENDED BY P.L.131-2018, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 2.5. (a) A patient (including a patient who is unable to consent due to physical or mental incapacity) to whose blood or body fluids an emergency medical services provider or a law enforcement officer is exposed as described in section 2 of this chapter is considered to have consented to:

(1) testing for the presence of a ~~dangerous~~ **serious** communicable disease of a type that has been epidemiologically demonstrated to be transmittable by an exposure of the kind experienced by the emergency medical services provider or law enforcement officer; and

(2) release of the testing results to a medical director or physician described in section 3 of this chapter.

The medical director or physician shall notify the emergency medical services provider or law enforcement officer of the test results.

(b) If a patient described in subsection (a) refuses to provide a blood or body fluid specimen for testing for a ~~dangerous~~ **serious** communicable disease, the exposed emergency medical services provider or law enforcement officer, the exposed emergency medical services provider's or law enforcement officer's employer, or the state department may petition the circuit or superior court having jurisdiction in the county:

(1) of the patient's residence; or

(2) where the employer of the exposed emergency medical services provider or law enforcement officer has the employer's principal office;

for an order requiring that the patient provide a blood or body fluid



1 specimen.

2 SECTION 33. IC 16-41-10-3, AS AMENDED BY P.L.131-2018,  
3 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
4 JULY 1, 2019]: Sec. 3. (a) Except as provided in subsection (b), if a  
5 patient to whose blood or body fluids an emergency medical services  
6 provider or a law enforcement officer is exposed as described in section  
7 2 of this chapter:

8 (1) is admitted to a medical facility following the exposure or is  
9 located in a medical facility at the time of the exposure, a  
10 physician designated by the medical facility shall, not more than  
11 seventy-two (72) hours after the medical facility is notified under  
12 section 2 of this chapter:

13 (A) cause a blood or body fluid specimen to be obtained from  
14 the patient and testing to be performed for a ~~dangerous~~ **serious**  
15 communicable disease of a type that has been  
16 epidemiologically demonstrated to be transmittable by an  
17 exposure of the kind experienced by the emergency medical  
18 services provider or law enforcement officer; and

19 (B) notify the medical director of the emergency medical  
20 services provider's employer or a physician as designated  
21 under subsection (b) or (c); or

22 (2) is not described in subdivision (1), the exposed emergency  
23 medical services provider or law enforcement officer, the exposed  
24 emergency medical services provider's or law enforcement  
25 officer's employer, or the state department may:

26 (A) arrange for testing of the patient as soon as possible; or

27 (B) petition the circuit or superior court having jurisdiction in  
28 the county of the patient's residence or where the employer of  
29 the exposed emergency medical services provider or law  
30 enforcement officer has the employer's principal office for an  
31 order requiring that the patient provide a blood or body fluid  
32 specimen.

33 (b) An emergency medical services provider may, on the form  
34 described in section 2 of this chapter, designate a physician other than  
35 the medical director of the emergency medical services provider's  
36 employer to receive the test results.

37 (c) A law enforcement officer shall, on the form described in section  
38 2 of this chapter, designate a physician to receive the test results.

39 (d) The medical director or physician described in this section shall  
40 notify the emergency medical services provider or law enforcement  
41 officer of the test results not more than forty-eight (48) hours after the  
42 medical director or physician receives the test results.



1 SECTION 34. IC 16-41-10-3.5 IS AMENDED TO READ AS  
 2 FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 3.5. (a) A medical  
 3 facility may not physically restrain a patient described in section 2.5 of  
 4 this chapter in order to test the patient for the presence of a ~~dangerous~~  
 5 **serious** communicable disease.

6 (b) Nothing in this chapter prohibits a patient from being discharged  
 7 from a medical facility before:

- 8 (1) a test is performed under section 2.5 or 3 of this chapter; or  
 9 (2) the results of a test are released under section 3 of this chapter.

10 (c) A provider or a facility that tests a patient for the presence of a  
 11 ~~dangerous serious~~ communicable disease under section 2.5 or ~~section~~  
 12 3 of this chapter is immune from liability for the performance of the  
 13 test over the patient's objection or without the patient's consent.  
 14 However, this subsection does not apply to an act or omission that  
 15 constitutes gross negligence or willful or wanton misconduct.

16 SECTION 35. IC 16-41-10-4, AS AMENDED BY P.L.131-2018,  
 17 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 18 JULY 1, 2019]: Sec. 4. (a) A medical director or physician notified  
 19 under section 3 of this chapter shall, not more than forty-eight (48)  
 20 hours after receiving the notification under section 3 of this chapter,  
 21 contact the emergency medical services provider or law enforcement  
 22 officer described in section 2 of this chapter to do the following:

- 23 (1) Explain, without disclosing information about the patient, the  
 24 ~~dangerous serious~~ communicable disease to which the emergency  
 25 medical services provider or law enforcement officer was  
 26 exposed.  
 27 (2) Provide for any medically necessary treatment and counseling  
 28 to the emergency medical services provider or law enforcement  
 29 officer.

30 (b) Expenses of testing or treatment and counseling are the  
 31 responsibility of the emergency medical services provider or the  
 32 provider's or law enforcement officer's employer.

33 SECTION 36. IC 16-41-11-3 IS AMENDED TO READ AS  
 34 FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 3. As used in this  
 35 chapter, "universal precautions" means procedures specified by rule  
 36 adopted by the state department under IC 4-22-2 that are used to  
 37 prevent the transmission of ~~dangerous serious~~ communicable diseases  
 38 ~~including acquired immune deficiency syndrome (AIDS)~~; through  
 39 blood or other body fluids.

40 SECTION 37. IC 16-41-12-15, AS AMENDED BY P.L.168-2014,  
 41 SECTION 31, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 42 JULY 1, 2019]: Sec. 15. (a) A blood center shall require a blood donor



to provide to the blood center the following information:

- (1) Name.
- (2) Address.
- (3) Date of birth.
- (4) The blood donor's Social Security number, if the blood donor is receiving monetary compensation for the donation.

(b) A blood center shall report the name and address of a blood donor to the state department when a confirmatory test of the blood donor's blood confirms the presence of antibodies to the human immunodeficiency virus (HIV).

(c) A blood center shall provide to a blood donor information to enable the blood donor to give informed consent to the procedures required by this chapter or IC 16-36. The information required by this subsection must be in the following form:

#### NOTICE

- (1) This blood center performs a screening test for the human immunodeficiency virus (HIV) on every donor's blood.
- (2) This blood center reports to the state department of health the name and address of a blood donor when a confirmatory test of the blood donor's blood confirms the presence of antibodies to the human immunodeficiency virus (HIV).
- (3) ~~A person who recklessly, knowingly, or intentionally donates (excluding self-donations for stem cell transplantation, other autologous donations, or donations not intended by the blood center for distribution or use), sells, or transfers blood that contains antibodies for the human immunodeficiency virus (HIV) commits transferring contaminated blood, a Level 5 felony. The offense is a Level 4 felony if the offense results in the transmission of the virus to another person.~~

SECTION 38. IC 16-41-13-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 1. (a) The attending physician or health care provider shall prepare and attach to the body of a deceased individual a conspicuous notice with the statement: "Observe Body Fluid Precautions" whenever the physician or provider knows that at least one (1) of the following disease processes was present in the deceased at the time of death:

- (1) Hepatitis (Types B, non A, non B).
- (2) Human immunodeficiency virus (HIV) infection. ~~(acquired immune deficiency syndrome and AIDS related complex).~~
- (3) Tuberculosis.
- (4) Herpes.
- (5) Gonorrhea.



- 1 (6) Syphilis (primary and secondary).
- 2 (7) Burkett's lymphoma.
- 3 (8) Kaposi's sarcoma.
- 4 (9) Arthropod-borne viral diseases.
- 5 (10) Babesiosis.
- 6 (11) Creutzfeldt-Jakob disease.
- 7 (12) Leptospirosis.
- 8 (13) Malaria.
- 9 (14) Rat-bite fever.
- 10 (15) Relapsing fever.
- 11 (16) Y. Pestis.
- 12 (17) Hemorrhagic fevers.
- 13 (18) Rabies.
- 14 (19) Any other communicable disease (as defined in IC 16-41-2).
- 15 (b) The notice required in this chapter must accompany the body
- 16 when the body is picked up for disposition.
- 17 SECTION 39. IC 16-41-14-7 IS AMENDED TO READ AS
- 18 FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 7. (a) Except as
- 19 provided in subsection (b), a practitioner may not use a donation of
- 20 semen until the following conditions are met:
- 21 (1) The specimen has been frozen and quarantined for at least one
- 22 hundred eighty (180) days.
- 23 (2) The donor is retested after one hundred eighty (180) days for
- 24 the HIV antibody.
- 25 (b) If the recipient indicates that the donor is in a mutually
- 26 monogamous relationship with the recipient, the practitioner:
- 27 (1) shall perform the HIV test required under this chapter for the
- 28 donor at least annually as long as artificial insemination
- 29 procedures are continuing; and
- 30 (2) may not perform artificial insemination unless ~~the tests for~~
- 31 ~~HIV antibody performed under this chapter produce negative~~
- 32 ~~results. safer conception practices are used and the practices~~
- 33 ~~are endorsed by the federal Centers for Disease Control and~~
- 34 ~~Prevention or other generally accepted experts.~~
- 35 SECTION 40. IC 16-41-14-8 IS AMENDED TO READ AS
- 36 FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 8. (a) **Except as**
- 37 **provided in subsection (b),** a practitioner shall dispose of a donation
- 38 of semen after a confirmatory test indicates the presence of the HIV
- 39 antibody. The disposal must be made according to the rules concerning
- 40 the disposal of infectious waste.
- 41 (b) **Subsection (a) does not apply if a donation of semen that**
- 42 **indicates the presence of the HIV antibody is used according to**



1 **safer conception practices and the practices are endorsed by the**  
 2 **federal Centers for Disease Control and Prevention or other**  
 3 **generally accepted experts.**

4 SECTION 41. IC 16-41-14-13, AS AMENDED BY P.L.158-2013,  
 5 SECTION 244, IS AMENDED TO READ AS FOLLOWS  
 6 [EFFECTIVE JULY 1, 2019]: Sec. 13. A practitioner shall provide  
 7 information to a semen donor to enable the semen donor to give  
 8 informed consent to the procedures required by this chapter. The  
 9 information required by this section must be in the following form:

10 NOTICE

11 (1) This facility performs a screening test for the human  
 12 immunodeficiency virus (HIV) on every donor's blood.

13 (2) This facility reports to the state department of health the name  
 14 and address of a semen donor or recipient when a confirmatory  
 15 test of the semen donor's blood or the recipient's blood confirms  
 16 the presence of antibodies to the human immunodeficiency virus  
 17 (HIV).

18 (3) ~~A person who, for the purpose of artificial insemination,~~  
 19 ~~recklessly, knowingly, or intentionally donates, sells, or transfers~~  
 20 ~~semen that contains antibodies for the human immunodeficiency~~  
 21 ~~virus (HIV) commits transferring contaminated semen, a Level 5~~  
 22 ~~felony. The offense is a Level 4 felony if the offense results in the~~  
 23 ~~transmission of the virus to another person.~~

24 SECTION 42. IC 16-41-14-17 IS REPEALED [EFFECTIVE JULY  
 25 1, 2019]. Sec. 17: (a) This section does not apply to a person who  
 26 transfers for research purposes semen that contains antibodies for the  
 27 human immunodeficiency virus (HIV):

28 (b) ~~A person who, for the purpose of artificial insemination,~~  
 29 ~~recklessly, knowingly, or intentionally donates, sells, or transfers semen~~  
 30 ~~that contains antibodies for the human immunodeficiency virus (HIV)~~  
 31 ~~commits transferring contaminated semen, a Level 5 felony. The~~  
 32 ~~offense is a Level 4 felony if the offense results in the transmission of~~  
 33 ~~the virus to another person.~~

34 SECTION 43. IC 16-41-16-4, AS AMENDED BY P.L.213-2016,  
 35 SECTION 24, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 36 JULY 1, 2019]: Sec. 4. (a) Except as provided in subsections (c) and  
 37 (d), as used in this chapter, "infectious waste" means waste that  
 38 epidemiologic evidence indicates is capable of transmitting a  
 39 ~~dangerous~~ **serious** communicable disease (as defined by rule adopted  
 40 under IC 16-41-2-1).

41 (b) The term includes the following:

42 (1) Pathological wastes.





- (2) Biological cultures and associated biologicals.
- (3) Contaminated sharps.
- (4) Infectious agent stock and associated biologicals.
- (5) Blood and blood products in liquid or semiliquid form.
- (6) Laboratory animal carcasses, body parts, and bedding.
- (7) Wastes (as described under section 8 of this chapter).
- (c) "Infectious waste", as the term applies to a:
  - (1) home health agency; or
  - (2) hospice service delivered in the home of a hospice patient;

includes only contaminated sharps.

- (d) The term does not include an aborted fetus or a miscarried fetus.

SECTION 44. IC 34-30-2-80 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 80. IC 16-41-2-6 (Concerning physicians, hospitals, and laboratories for reporting communicable or ~~dangerous~~ **other** diseases).

SECTION 45. IC 34-30-2-81, AS AMENDED BY P.L.86-2018, SECTION 273, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 81. (a) IC 16-41-7-2 (Concerning the good faith reporting to a health officer of an individual thought to present a serious and present danger to the health of others, to have engaged in noncompliant behavior, or to be at risk of carrying a ~~dangerous~~ **serious** communicable disease).

(b) IC 16-41-7-3 (Concerning a physician who provides notification to certain individuals regarding a patient's ~~dangerous~~ **serious** communicable disease).

SECTION 46. IC 34-30-2-81.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 81.5. IC 16-41-10-3.5 (Concerning a provider who tests a patient for the presence of a ~~dangerous~~ **serious** communicable disease).

SECTION 47. IC 34-30-2-82 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 82. IC 16-41-10-6 (Concerning a person reporting that an emergency medical services provider has been exposed to a ~~dangerous~~ **serious** communicable disease during the course of emergency duties).

SECTION 48. IC 34-30-2-149.5, AS AMENDED BY P.L.86-2018, SECTION 320, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 149.5. (a) IC 35-38-1-10.5 (Concerning a person who makes a report or testifies in court regarding the results of a test for the human immunodeficiency virus (HIV) or ~~another dangerous~~ **other** disease performed on an individual convicted of certain crimes).

(b) IC 35-38-1-28(d) (Concerning a clerk, court, law enforcement



officer, or prosecuting attorney for an error or omission in the transportation of fingerprints, case history data, or sentencing data).

SECTION 49. IC 34-46-2-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 9. IC 16-41-2-4 (Concerning reports of communicable or ~~dangerous~~ **serious** diseases).

SECTION 50. IC 34-46-2-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 10. IC 16-41-7-3 (Concerning warning by physician of ~~dangerous~~ **serious** communicable disease).

SECTION 51. IC 35-31.5-2-52 IS REPEALED [EFFECTIVE JULY 1, 2019]. ~~Sec. 52: "Component", for purposes of IC 35-45-21-1, has the meaning set forth in IC 35-45-21-1(a).~~

SECTION 52. IC 35-38-1-10.5, AS AMENDED BY P.L.86-2018, SECTION 333, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 10.5. (a) The court:

(1) shall order that a person undergo a screening test for the human immunodeficiency virus (HIV) if the person is:

(A) convicted of an offense relating to a criminal sexual act and the offense created an epidemiologically demonstrated risk of transmission of the human immunodeficiency virus (HIV); or

(B) convicted of an offense relating to controlled substances and the offense involved:

(i) the delivery by any person to another person; or

(ii) the use by any person on another person;

of a contaminated sharp (as defined in IC 16-41-16-2) or other paraphernalia that creates an epidemiologically demonstrated risk of transmission of HIV by involving percutaneous contact; and

(2) may order that a person undergo a screening test for a ~~dangerous~~ **serious** disease (as defined in IC 16-41-8-5) in accordance with IC 16-41-8-5.

(b) If the screening test required by this section indicates the presence of antibodies to HIV, the court shall order the person to undergo a confirmatory test.

(c) If the confirmatory test confirms the presence of the HIV antibodies, the court shall report the results to the state department of health and require a probation officer to conduct a presentence investigation to:

(1) obtain the medical record of the convicted person from the state department of health under IC 16-41-8-1(b)(3); and

(2) determine whether the convicted person had received risk



counseling that included information on the behavior that facilitates the transmission of HIV.

(d) A person who, in good faith:

(1) makes a report required to be made under this section; or

(2) testifies in a judicial proceeding on matters arising from the report;

is immune from both civil and criminal liability due to the offering of that report or testimony.

(e) The privileged communication between a husband and wife or between a health care provider and the health care provider's patient is not a ground for excluding information required under this section.

(f) A mental health service provider (as defined in IC 34-6-2-80) who discloses information that must be disclosed to comply with this section is immune from civil and criminal liability under Indiana statutes that protect patient privacy and confidentiality."

SECTION 53. IC 35-45-21-1 IS REPEALED [EFFECTIVE JULY 1, 2019]. Sec. 1: (a) As used in this section, "blood" has the meaning set forth in IC 16-41-12-2.5.

(b) A person who recklessly; knowingly; or intentionally donates; sells; or transfers blood or semen for artificial insemination (as defined in IC 16-41-14-2) that contains the human immunodeficiency virus (HIV) commits transferring contaminated body fluids, a Level 5 felony.

(c) However, the offense under subsection (b) is a Level 3 felony if it results in the transmission of the human immunodeficiency virus (HIV) to any person other than the defendant.

(d) This section does not apply to:

(1) a person who, for reasons of privacy, donates, sells, or transfers blood at a blood center (as defined in IC 16-41-12-3) after the person has notified the blood center that the blood must be disposed of and may not be used for any purpose;

(2) a person who transfers blood semen, or another body fluid that contains the human immunodeficiency virus (HIV) for research purposes; or

(3) a person who is an autologous blood donor for stem cell transplantation.

SECTION 54. IC 35-52-16-51 IS REPEALED [EFFECTIVE JULY 1, 2019]. Sec. 51: IC 16-41-12-15 defines a crime concerning communicable diseases.

SECTION 55. IC 35-52-16-55 IS REPEALED [EFFECTIVE JULY 1, 2019]. Sec. 55: IC 16-41-14-13 defines a crime concerning communicable diseases.

SECTION 56. IC 35-52-16-58 IS REPEALED [EFFECTIVE JULY



1 1, 2019]. Sec. 58. IC 16-41-14-17 defines a crime concerning  
2 communicable diseases.



COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Health, to which was referred House Bill 1325, 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:

Delete everything after the enacting clause and insert the following:

(SEE TEXT OF BILL)

and when so amended that said bill do pass.

(Reference is to HB 1325 as introduced.)

KIRCHHOFFER

Committee Vote: yeas 13, nays 0.

