



Reprinted
February 1, 2000

HOUSE BILL No. 1392

DIGEST OF HB 1392 (Updated January 31, 2000 5:45 PM - DI 51)

Citations Affected: IC 16-18; IC 16-41; IC 16-42; IC 35-42; noncode.

Synopsis: Duty to warn about AIDS and related matters. Revises definitions in the health law to provide for consistent usage of the terms throughout the health law. Expands the scope of the AIDS notification provisions to include Hepatitis C. Relocates AIDS crimes from the Indiana Code chapter concerning homicide to the Indiana Code title concerning health. Indicates that a victim of a sex crime does not have a duty to warn the offender that the victim has a dangerous communicable disease. Provides that each violation of the AIDS crimes, rather than each day of the violation, is a separate offense.

Effective: July 1, 2000.

Brown T, Kruzan

January 11, 2000, read first time and referred to Committee on Human Affairs.
January 26, 2000, reported — Do Pass.
January 31, 2000, read second time, amended, ordered engrossed.

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Second Regular Session 111th General Assembly (2000)

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 1999 General Assembly.

HOUSE BILL No. 1392

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

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

- 1 SECTION 1. IC 16-18-2-49 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 49. (a) "Carrier", for
3 purposes of IC 16-41, **other than IC 16-41-7**, means a person who has:
4 (1) tuberculosis in a communicable stage; or
5 (2) another dangerous communicable disease.
6 (b) "Carrier", for purposes of IC 16-41-7, refers to a person
7 who has a dangerous communicable disease described in
8 IC 16-41-7-1(a).
9 (c) "Carrier", for purposes of IC 16-41-35-39, refers to a carrier
10 of nuclear waste.
11 SECTION 2. IC 16-18-2-91 IS AMENDED TO READ AS
12 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 91. "Dangerous
13 communicable disease" for purposes of:
14 (1) IC 16-41, **other than IC 16-41-7**, means a communicable
15 disease that is classified by the state department as dangerous
16 under IC 16-41-2-1; **and**
17 (2) IC 16-41-7, refers to a dangerous communicable disease

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1 **described in IC 16-41-7-1(a).**

2 SECTION 3. IC 16-18-2-66.7 IS ADDED TO THE INDIANA
3 CODE AS A NEW SECTION TO READ AS FOLLOWS
4 [EFFECTIVE JULY 1, 2000]: **Sec. 66.7. "Component", for purposes**
5 **of IC 16-41-13-7, has the meaning set forth in IC 16-41-13-7.**

6 SECTION 4. IC 16-18-2-170 IS AMENDED TO READ AS
7 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 170. "High risk
8 activity", for purposes of IC 16-41-7, has the meaning set forth in
9 ~~IC 16-41-7-1(b).~~ **IC 16-41-7-1.**

10 SECTION 5. IC 16-18-2-275 IS AMENDED TO READ AS
11 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 275. (a) "Person at
12 risk", for purposes of IC 16-41-7-4, has the meaning set forth in
13 IC 16-41-7-4(a).

14 (b) "Person at risk", for purposes of IC 16-41-7-1, **IC 16-41-7-2,** and
15 IC 16-41-7-3, has the meaning set forth in ~~IC 16-41-7-1(c).~~
16 **IC 16-41-7-1.**

17 SECTION 6. IC 16-41-7-1 IS AMENDED TO READ AS
18 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 1. (a) This section
19 applies to the following dangerous communicable diseases:

- 20 (1) Acquired immune deficiency syndrome (AIDS).
21 (2) Human immunodeficiency virus (HIV).
22 (3) Hepatitis B.

23 **(4) Hepatitis C.**

24 (b) As used in this section, "high risk activity" means sexual or
25 needle sharing contact that has been demonstrated epidemiologically
26 to transmit a dangerous communicable disease. ~~described in subsection~~
27 ~~(a).~~

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

- 29 (1) past and present sexual or needle sharing partners who may
30 have engaged in high risk activity; or
31 (2) sexual or needle sharing partners before engaging in high risk
32 activity;

33 with the carrier of a dangerous communicable disease. ~~described in~~
34 ~~subsection (a).~~

35 **(d) Subsection (e) does not apply to a victim who engages in high**
36 **risk activity as the result of the commission of a crime of:**

- 37 **(1) rape under IC 35-42-4-1;**
38 **(2) criminal deviate conduct under IC 35-42-4-2;**
39 **(3) child molesting under IC 35-42-4-3;**
40 **(4) child solicitation under IC 35-42-4-6;**
41 **(5) child seduction under IC 35-42-4-7;**
42 **(6) sexual battery under IC 35-42-4-8; or**



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1 **(7) sexual misconduct with a minor under IC 35-42-4-9;**
 2 **against the victim by a person at risk.**

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

6 (1) The carrier's disease status.

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

8 SECTION 7. IC 16-41-7-5, AS AMENDED BY P.L.1-1999,
 9 SECTION 47, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 10 JULY 1, 2000]: Sec. 5. (a) ~~Except as provided in IC 35-42-1-9~~; A
 11 **person carrier** who recklessly violates or fails to comply with this
 12 chapter commits a Class B misdemeanor.

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

14 SECTION 8. IC 16-41-7-6 IS ADDED TO THE INDIANA CODE
 15 AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY
 16 1, 2000] **Sec. 6. (a) A carrier who knowingly or intentionally**
 17 **violates or fails to comply with section 1 of this chapter commits a**
 18 **Class D felony.**

19 **(b) Each violation described in this section constitutes a separate**
 20 **offense.**

21 SECTION 9. IC 16-41-8-1 IS AMENDED TO READ AS
 22 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 1. (a) Except as
 23 provided in subsections (d) and (e), a person may not disclose or be
 24 compelled to disclose medical or epidemiological information
 25 involving a communicable disease or other disease that is a danger to
 26 health (as defined under rules adopted under IC 16-41-2-1). This
 27 information may not be released or made public upon subpoena or
 28 otherwise, except under the following circumstances:

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

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

35 (3) Release may be made of medical or epidemiologic information
 36 to the extent necessary to enforce public health laws, laws
 37 described in IC 31-37-19-4 through IC 31-37-19-6, IC 31-37-19-9
 38 through IC 31-37-19-10, IC 31-37-19-12 through IC 31-37-19-23,
 39 IC 35-38-1-7.1, ~~and IC 35-42-1-7~~, **IC 16-41-7-6, IC 16-41-13-7,**
 40 **and IC 16-41-14-21**, or to protect the health or life of a named
 41 party.

42 (b) Except as provided in subsection (a), a person responsible for



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1 recording, reporting, or maintaining information required to be reported
 2 under IC 16-41-2 who recklessly, knowingly, or intentionally discloses
 3 or fails to protect medical or epidemiologic information classified as
 4 confidential under this section commits a Class A misdemeanor.

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

8 (d) Release shall be made of the medical records concerning an
 9 individual to the individual or to a person authorized in writing by the
 10 individual to receive the medical records.

11 (e) An individual may voluntarily disclose information about the
 12 individual's communicable disease.

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

15 SECTION 10. IC 16-41-13-7 IS ADDED TO THE INDIANA
 16 CODE AS A NEW SECTION TO READ AS FOLLOWS
 17 [EFFECTIVE JULY 1, 2000]: **Sec. 7. (a) This section does not apply**
 18 **to:**

19 (1) a person who, for reasons of privacy, donates, sells, or
 20 transfers blood or a blood component at a blood center after
 21 the person has notified the blood center that the blood or
 22 blood component must be disposed of and may not be used for
 23 any purpose; or

24 (2) a person who transfers blood, a blood component, or
 25 another body fluid that contains the human immunodeficiency
 26 virus (HIV) for research purposes.

27 (b) As used in this section, "component" means plasma,
 28 platelets, or serum of a human being.

29 (c) A person who recklessly, knowingly, or intentionally donates,
 30 sells, or transfers blood or a blood component that contains the
 31 human immunodeficiency virus (HIV) commits transferring
 32 contaminated blood, a Class C felony. However, the offense is a
 33 Class A felony if it results in the transmission of the human
 34 immunodeficiency virus (HIV) to any other person.

35 SECTION 11. IC 16-41-14-21 IS ADDED TO THE INDIANA
 36 CODE AS A NEW SECTION TO READ AS FOLLOWS
 37 [EFFECTIVE JULY 1, 2000]: **Sec. 21. (a) This section does not apply**
 38 **to a person who transfers semen or another body fluid that**
 39 **contains the human immunodeficiency virus (HIV) for research**
 40 **purposes.**

41 (b) A person who recklessly, knowingly, or intentionally
 42 donates, sells, or transfers semen for artificial insemination that

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1 contains the human immunodeficiency virus (HIV) commits
 2 transferring contaminated semen, a Class C felony. However, the
 3 offense is a Class A felony if it results in the transmission of the
 4 human immunodeficiency virus (HIV) to any other person.

5 SECTION 12. IC 16-42-25 IS ADDED TO THE INDIANA CODE
 6 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
 7 JULY 1, 2000]:

8 **Chapter 25. AIDS Home Testing Kits**

9 **Sec. 1. The sale or distribution of:**

- 10 (1) diagnostic testing equipment or apparatus; or
 11 (2) a blood collection kit;

12 intended for home use to diagnose or confirm human
 13 immunodeficiency virus (HIV) infection or disease is prohibited
 14 unless the testing equipment, apparatus, or kit has been approved
 15 for use by the federal Food and Drug Administration.

16 **Sec. 2. A person who knowingly or intentionally violates section**
 17 **1 of this chapter commits a Class A misdemeanor.**

18 SECTION 13. THE FOLLOWING ARE REPEALED [EFFECTIVE
 19 JULY 1, 2000]: IC 35-42-1-7; IC 35-42-1-8; IC 35-42-1-9.

20 SECTION 14. [EFFECTIVE JULY 1, 2000] A felony or
 21 misdemeanor committed under IC 35-42-1-7, IC 35-42-1-8, or
 22 IC 35-42-1-9 before July 1, 2000, may be prosecuted and remains
 23 punishable as provided in IC 35-42-1-7, IC 35-42-1-8, and
 24 IC 35-42-1-9, as in effect before their repeal by this act. This act
 25 does not affect penalties incurred or proceedings begun before July
 26 1, 2000.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Human Affairs, to which was referred House Bill 1392, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

SUMMERS, Chair

Committee Vote: yeas 9, nays 2.

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HOUSE MOTION

Mr. Speaker: I move that House Bill 1392 be amended to read as follows:

Page 2, delete lines 9 through 24.

Page 2, between lines 30 and 31, begin a new line block indented and insert:

"(4) Hepatitis C."

Re-number all SECTIONS consecutively.

(Reference is to HB 1392 as printed January 27, 2000.)

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 HOUSE MOTION

Mr. Speaker: I move that House Bill 1392 be amended to read as follows:

Page 1, line 3, after "," insert "**other than IC 16-41-7**,".

Page 1, line 4, reset in roman "or".

Page 1, line 5, delete "; or" and insert ".".

Page 1, line 6, delete "(3) been diagnosed as having", begin a new paragraph and insert:

"(b) "Carrier", for purposes of IC 16-41-7, refers to a person who has".

Page 1, line 7, delete "and has received risk" and insert ".".

Page 1, delete line 8.

Page 1, line 9, delete "(b)", begin a new paragraph and insert "(c)".

Page 1, between lines 10 and 11, begin a new paragraph and insert:
 "SECTION 2. IC 16-18-2-91 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 91. "Dangerous communicable disease" for purposes of:

(1) IC 16-41, other than IC 16-41-7, means a communicable disease that is classified by the state department as dangerous under IC 16-41-2-1; **and**

(2) IC 16-41-7, refers to a dangerous communicable disease described in IC16-41-7-1(a)."

Page 2, delete lines 9 through 24.

Page 2, line 33, after "disease" insert ".".

Page 2, line 33, strike "described in subsection".

Page 2, strike line 34.

Page 2, line 40, reset in roman "the carrier of".

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Page 2, line 40, delete "a person who has been diagnosed as having".

Page 2, line 41, after "disease" insert ".".

Page 2, line 41, strike "described in subsection (a).".

Page 2, line 41, delete "The".

Page 2, line 42, delete "term does not include a person who has allegedly committed", begin a new paragraph and insert:

"(d) Subsection (e) does not apply to a victim who engages in high risk activity as the result of the commission of a crime of:".

Page 2, line 42, before "rape" begin a new line block indented and insert:

"(1)".

Page 3 line 1, after "IC 35-42-4-1" delete "," and insert ";".

Page 3, line 1, before "criminal " begin a new line block indented and insert:

"(2)".

Page 3 line 1, after "IC 35-42-4-2" delete "," and insert ";".

Page 3, line 2, before "child molesting" begin a new line block indented and insert:

"(3)".

Page 3 line 2, after "IC 35-42-4-3" delete "," and insert ";".

Page 3, line 2, before "child solicitation" begin a new line block indented and insert:

"(4)".

Page 3 line 3, after "IC 35-42-4-6" delete "," and insert ";".

Page 3, line 3, before "child" begin a new line block indented and insert:

"(5)".

Page 3 line 3, after "IC 35-42-4-7" delete "," and insert ";".

Page 3, line 3, before "sexual" begin a new line block indented and insert:

"(6)".

Page 3 line 4, after "IC 35-42-4-8" delete "," and insert ";".

Page 3, line 4, after "or" begin a new line block indented and insert:

"(7)".

Page 3, line 5, delete "." and insert ";".

Page 3, between lines 5 and 6, begin a new line blocked left and insert

"against the victim by a person at risk."

Page 3, line 6, strike "(d)" and insert "(e)".

Page 3, line 6, reset in roman "who know of their status as a carrier of a dangerous".



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Page 3, line 7, reset in roman "communicable disease".
 Page 3, line 14, delete ", knowingly, or intentionally".
 Page 3, line 19, delete ":".
 Page 3, line 20, delete "(1) recklessly,".
 Page 3, line 20, after "knowingly" delete ",".
 Page 3, line 21, delete "; and".
 Page 3, delete lines 22 through 28.
 Page 3, run in lines 21 through 29.
 Page 4, line 40, delete "carrier" and insert "**person**".
 Page 5, line 3, delete "a" and insert "**any other**".
 Page 5, line 3, delete "other than the" and insert ".".
 Page 5, delete line 4.
 Page 5, line 11, delete "carrier" and insert "**person**".
 Page 5, line 16, delete "a" and insert "**any other**".
 Page 5, line 16, delete "other than the" and insert ".".
 Page 5, delete line 17.
 Renumber all SECTIONS consecutively.
 (Reference is to HB 1392 as printed January 27, 2000.)

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