

SENATE BILL No. 389

DIGEST OF INTRODUCED BILL

Citations Affected: IC 16-18-2; IC 16-40-6; IC 34-30-2-79.5.

Synopsis: Provider reporting of domestic violence. Requires a health care provider to: (1) implement protocols and policies for the identification of domestic violence and to offer intervention and treatment services; and (2) report an incident of domestic violence to the local law enforcement agency. Specifies information to be included in the report. Provides civil and criminal immunity for a person who is required to report an incident of domestic violence.

Effective: July 1, 2012.

Waltz

January 9, 2012, read first time and referred to Committee on Corrections, Criminal, and Civil Matters.

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Second Regular Session 117th General Assembly (2012)

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 2011 Regular Session of the General Assembly.

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SENATE BILL No. 389



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 16-18-2-99.4 IS ADDED TO THE INDIANA
2 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
3 [EFFECTIVE JULY 1, 2012]: **Sec. 99.4. "Domestic violence", for**
4 **purposes of IC 16-40-6, has the meaning set forth in IC 16-40-6-1.**
5 SECTION 2. IC 16-18-2-163, AS AMENDED BY P.L.108-2007,
6 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
7 JULY 1, 2012]: Sec. 163. (a) "Health care provider", for purposes of
8 IC 16-21 and IC 16-41, means any of the following:
9 (1) An individual, a partnership, a corporation, a professional
10 corporation, a facility, or an institution licensed or legally
11 authorized by this state to provide health care or professional
12 services as a licensed physician, a psychiatric hospital, a hospital,
13 a health facility, an emergency ambulance service (IC 16-31-3),
14 a dentist, a registered or licensed practical nurse, a midwife, an
15 optometrist, a pharmacist, a podiatrist, a chiropractor, a physical
16 therapist, a respiratory care practitioner, an occupational therapist,
17 a psychologist, a paramedic, an emergency medical technician, an



1 emergency medical technician-basic advanced, an emergency
 2 medical technician-intermediate, or a person who is an officer,
 3 employee, or agent of the individual, partnership, corporation,
 4 professional corporation, facility, or institution acting in the
 5 course and scope of the person's employment.

6 (2) A college, university, or junior college that provides health
 7 care to a student, a faculty member, or an employee, and the
 8 governing board or a person who is an officer, employee, or agent
 9 of the college, university, or junior college acting in the course
 10 and scope of the person's employment.

11 (3) A blood bank, community mental health center, community
 12 mental retardation center, community health center, or migrant
 13 health center.

14 (4) A home health agency (as defined in IC 16-27-1-2).

15 (5) A health maintenance organization (as defined in
 16 IC 27-13-1-19).

17 (6) A health care organization whose members, shareholders, or
 18 partners are health care providers under subdivision (1).

19 (7) A corporation, partnership, or professional corporation not
 20 otherwise qualified under this subsection that:

21 (A) provides health care as one (1) of the corporation's,
 22 partnership's, or professional corporation's functions;

23 (B) is organized or registered under state law; and

24 (C) is determined to be eligible for coverage as a health care
 25 provider under IC 34-18 for the corporation's, partnership's, or
 26 professional corporation's health care function.

27 Coverage for a health care provider qualified under this subdivision is
 28 limited to the health care provider's health care functions and does not
 29 extend to other causes of action.

30 (b) "Health care provider", for purposes of IC 16-35, has the
 31 meaning set forth in subsection (a). However, for purposes of IC 16-35,
 32 the term also includes a health facility (as defined in section 167 of this
 33 chapter).

34 (c) "Health care provider", for purposes of IC 16-36-5, means an
 35 individual licensed or authorized by this state to provide health care or
 36 professional services as:

37 (1) a licensed physician;

38 (2) a registered nurse;

39 (3) a licensed practical nurse;

40 (4) an advanced practice nurse;

41 (5) a licensed nurse midwife;

42 (6) a paramedic;

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- 1 (7) an emergency medical technician;
 2 (8) an emergency medical technician-basic advanced;
 3 (9) an emergency medical technician-intermediate; or
 4 (10) a first responder, as defined under IC 16-18-2-131.

5 The term includes an individual who is an employee or agent of a
 6 health care provider acting in the course and scope of the individual's
 7 employment.

8 (d) "Health care provider", for purposes of IC 16-40-4, means any
 9 of the following:

10 (1) An individual, a partnership, a corporation, a professional
 11 corporation, a facility, or an institution licensed or authorized by
 12 the state to provide health care or professional services as a
 13 licensed physician, a psychiatric hospital, a hospital, a health
 14 facility, an emergency ambulance service (IC 16-31-3), an
 15 ambulatory outpatient surgical center, a dentist, an optometrist, a
 16 pharmacist, a podiatrist, a chiropractor, a psychologist, or a
 17 person who is an officer, employee, or agent of the individual,
 18 partnership, corporation, professional corporation, facility, or
 19 institution acting in the course and scope of the person's
 20 employment.

21 (2) A blood bank, laboratory, community mental health center,
 22 community mental retardation center, community health center,
 23 or migrant health center.

24 (3) A home health agency (as defined in IC 16-27-1-2).

25 (4) A health maintenance organization (as defined in
 26 IC 27-13-1-19).

27 (5) A health care organization whose members, shareholders, or
 28 partners are health care providers under subdivision (1).

29 (6) A corporation, partnership, or professional corporation not
 30 otherwise specified in this subsection that:

31 (A) provides health care as one (1) of the corporation's,
 32 partnership's, or professional corporation's functions;

33 (B) is organized or registered under state law; and

34 (C) is determined to be eligible for coverage as a health care
 35 provider under IC 34-18 for the corporation's, partnership's, or
 36 professional corporation's health care function.

37 (7) A person that is designated to maintain the records of a person
 38 described in subdivisions (1) through (6).

39 (e) "Health care provider", for purposes of IC 16-45-4, has the
 40 meaning set forth in 47 CFR 54.601(a).

41 (f) "Health care provider", for purposes of IC 16-40-6, means:

42 (1) any:

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1 (A) individual, partnership, corporation, professional
 2 corporation, facility, or institution licensed or legally
 3 authorized by the state to provide health care or
 4 professional services as:

- 5 (i) a licensed physician;
 6 (ii) a psychiatric hospital;
 7 (ii) a hospital;
 8 (iv) a health facility;
 9 (v) an emergency ambulance service (operating under
 10 IC 16-31-3);
 11 (vi) a dentist;
 12 (vii) a registered or licensed practical nurse;
 13 (viii) a midwife;
 14 (ix) an optometrist;
 15 (x) a pharmacist;
 16 (xi) a podiatrist;
 17 (xii) a chiropractor;
 18 (xiii) a physical therapist;
 19 (xiv) a respiratory care practitioner;
 20 (xv) an occupational therapist;
 21 (xvi) a psychologist;
 22 (xvii) a paramedic;
 23 (xviii) an emergency medical technician;
 24 (xix) an emergency medical technician-basic advanced;
 25 or
 26 (xx) an emergency medical technician-intermediate; or

27 (B) person who:

- 28 (i) is an officer, employee, or agent of an individual,
 29 partnership, corporation, professional corporation,
 30 facility, or institution referred to in clause (A); and
 31 (ii) is acting in the course and scope of the person's
 32 employment;

33 (2) a college, university, or junior college that provides health
 34 care to a student, faculty member, or employee, the governing
 35 board of the college, university, or junior college, or a person
 36 who is an officer, employee, or agent of the college, university,
 37 or junior college and is acting in the course and scope of the
 38 person's employment; or

39 (3) a blood bank, community mental health center,
 40 community mental retardation center, community health
 41 center, or migrant health center.

42 SECTION 3. IC 16-40-6 IS ADDED TO THE INDIANA CODE AS

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A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]:

Chapter 6. Reporting of Domestic Violence

Sec. 1. As used in this chapter, "domestic violence" means an act by an individual:

(1) that includes:

- (A) the use of physical force; or**
- (B) a threat to use a deadly weapon; and**

(2) that is committed against:

- (A) a current or former spouse, parent, or guardian of the individual;**
- (B) a person with whom the individual shared a child in common;**
- (C) a person who is cohabiting with or had cohabited with the individual as a spouse, parent, or guardian;**
- (D) a person who occupies or had occupied a position similar to that of a spouse, parent, or guardian of the individual; or**
- (E) a person with whom the individual is participating or has participated in an intimate relationship.**

Sec. 2. (a) The purpose of this chapter is to address the major public issue of family and intimate partner violence.

(b) This chapter does not apply to an incident of child abuse that is required to be reported under IC 31-33-5.

Sec. 3. A health care provider shall implement protocols and policies to:

- (1) identify;**
- (2) offer intervention to; and**
- (3) provide treatment services to;**

a victim of domestic violence.

Sec. 4. (a) Except as provided in subsections (b) and (c), a health care provider who has:

- (1) reason to believe that an individual is a victim of domestic violence; and**
- (2) the informed consent of the victim for the making of the report;**

shall make an oral report to the local law enforcement agency that the individual may be a victim of domestic violence.

(b) A health care provider that is a facility may develop a policy under which the information that must be included in a report under this section is provided to a designated agent of the facility whose responsibilities include providing the notification required

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1 in subsection (a) to the local law enforcement agency.

2 (c) A health care provider who has reason to believe that an
3 individual is a victim of domestic violence may report to the local
4 law enforcement agency that the individual may be a victim of
5 domestic violence without the consent of the individual if the health
6 care provider reasonably believes that the individual's failure to
7 consent to the report is due to coercion.

8 (d) A report made under this section must include the following
9 information:

- 10 (1) The name and address of the alleged victim.
- 11 (2) The name and address, if known, of the person allegedly
- 12 responsible for the domestic violence.
- 13 (3) The nature and apparent extent of the alleged victim's
- 14 injuries.
- 15 (4) The identity of the person making the report, and where
- 16 that person can be reached.
- 17 (5) Any other information the person making the report
- 18 believes may be helpful to an investigation into the allegations.

19 Sec. 5. (a) A health care provider:

- 20 (1) who has a duty under section 4 of this chapter to report to
- 21 the local law enforcement agency that an individual may be a
- 22 victim of domestic violence; and
- 23 (2) who reports in good faith to the local law enforcement
- 24 agency that the individual may be a victim of domestic
- 25 violence;

26 is immune from civil and criminal liability arising from the making
27 of the report.

28 (b) A health care provider who:

- 29 (1) does not have the consent of the individual to make the
- 30 report to the local law enforcement agency, but reasonably
- 31 believes that the individual's failure to consent to the making
- 32 of a report to the local law enforcement agency is due to
- 33 coercion; and
- 34 (2) reports in good faith to the local law enforcement agency
- 35 that the individual may be a victim of domestic violence;

36 is immune from civil and criminal liability arising from the making
37 of the report.

38 SECTION 4. IC 34-30-2-79.5 IS ADDED TO THE INDIANA
39 CODE AS A NEW SECTION TO READ AS FOLLOWS
40 [EFFECTIVE JULY 1, 2012]: Sec. 79.5. IC 16-40-6 (Concerning a
41 person who reports domestic violence under IC 16-40-6).

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