
SENATE BILL No. 391

DIGEST OF INTRODUCED BILL

Citations Affected: IC 16-20-1; IC 16-37-3; IC 33-34-8-1; IC 36-1-11-1.

Synopsis: Various health matters. Requires a local health officer to show identification and receive consent before entering the premises to inspect or perform other tasks to determine compliance with public health laws and rules and to prevent and suppress disease. Sets forth circumstances in which consent is not required. Sets forth multiple actions that a court may take to enforce a local board of health order, citation, or administrative notice. (Current law allows the court to enforce an order by injunction.) Specifies that the entries into the Indiana death registration system are required only for deaths that occurred after December 31, 2010. Prohibits the collection of Marion County small claims court fees from a state or political subdivision. Exempts the health and hospital corporation from following certain procedures in the sale, lease, or disposal of property. (Current law exempts the health and hospital corporation from following these procedures in the disposal of surplus property.)

Effective: July 1, 2012.

Miller

January 9, 2012, read first time and referred to Committee on Judiciary.

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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. 391

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 16-20-1-23 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 23. (a) ~~Except as~~
3 ~~provided in subsection (b);~~ **Upon:**
4 **(1) showing official identification; and**
5 **(2) except as provided in subsection (b), receiving consent of**
6 **the owner or occupant of the premises;**
7 ~~the a~~ local health officer or the officer's designee may enter ~~upon the~~
8 **premises at any reasonable time** and inspect, ~~private property;~~ at
9 proper times after due notice; in regard to the possible presence;
10 source; and cause of disease. The local health officer or designee may
11 order what is reasonable and necessary for prevention and suppression
12 of disease and in all reasonable and necessary ways protect the public
13 health: **investigate, evaluate, conduct tests, or take specimens or**
14 **samples for testing that may be reasonably necessary to determine**
15 **compliance with public health laws and rules and for the**
16 **prevention and suppression of disease.**
17 **(b) A local health officer or the officer's designee does not need**



1 to obtain the consent of the owner or the occupant of the premises
2 in subsection (a) in any of the following circumstances:

3 (1) The local health officer or the officer's designee obtains an
4 order from a circuit or superior court in the jurisdiction
5 where the premises is located to authorize the inspection,
6 investigation, evaluation, testing, or taking of specimens or
7 samples for testing.

8 (2) A condition poses an imminent and serious threat to the
9 health of an individual or the public and the local health
10 officer or the officer's designee believes that a delay could
11 result in a greater health risk.

12 (3) Entry by a local health officer or the officer's designee to
13 a public place or an area in plain and open view to determine
14 compliance with public health laws and rules.

15 (4) Entry under the terms and conditions of a license issued by
16 the local health department at any reasonable time if
17 reasonably necessary to determine compliance with public
18 health laws and rules and the terms and conditions of the
19 license.

20 (c) A court described in subsection (b)(1) may authorize an
21 order to inspect, investigate, evaluate, conduct tests, or take
22 specimens or samples for testing if the court finds that the local
23 health office or the officer's designee, by oath or affirmation,
24 provided reliable information establishing the violation of a public
25 health law or rule at the premises.

26 ~~(b)~~ (d) However, A local health officer, or a person acting under the
27 local health officer, shall not inspect property in which the local health
28 officer has any interest, whether real, equitable, or otherwise. Any such
29 inspection or any attempt to make such inspection is grounds for
30 removal as provided for in this article.

31 ~~(c)~~ (e) ~~This section~~ Subsection (d) does not prevent inspection of
32 premises in which a local health officer has an interest if the premises
33 cannot otherwise be inspected. ~~If the premises cannot otherwise be~~
34 ~~inspected, the county health officer shall inspect the premises~~
35 ~~personally.~~

36 SECTION 2. IC 16-20-1-26 IS AMENDED TO READ AS
37 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 26. (a) A local board
38 of health or local health officer may enforce the board's or officer's
39 orders, citations, and administrative notices by an action in the
40 circuit or superior court. ~~In the action, The court may enforce the order~~
41 ~~by injunction. take any appropriate action in a proceeding under~~
42 ~~this section, including any of the following:~~

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- 1 **(1) Issuing an injunction.**
- 2 **(2) Entering a judgment.**
- 3 **(3) Issuing an order and conditions under IC 16-41-9.**
- 4 **(4) Ordering the suspension or revocation of a license.**
- 5 **(5) Ordering an inspection.**
- 6 **(6) Ordering that a property be vacated.**
- 7 **(7) Ordering that a structure be demolished.**
- 8 **(8) Imposing a penalty not to exceed an amount set forth in**
- 9 **IC 36-1-3-8(a)(10).**
- 10 **(9) Imposing court costs and fees under IC 33-37-4-2 and**
- 11 **IC 33-37-5.**
- 12 **(10) Ordering the respondent to take appropriate action in a**
- 13 **specified time to comply with the order of the local board of**
- 14 **health or local health officer.**
- 15 **(11) Ordering a local board of health or local health officer to**
- 16 **take appropriate action to enforce an order within a specified**
- 17 **time.**

18 (b) The county attorney in which a local board of health or local
 19 health officer has jurisdiction shall represent the local health board and
 20 local health officer in the action unless the county executive, **local**
 21 **board of health, or health and hospital corporation** employs other
 22 legal counsel or the matter has been referred through law enforcement
 23 authorities to the prosecuting attorney.

24 SECTION 3. IC 16-37-3-3, AS AMENDED BY P.L.156-2011,
 25 SECTION 35, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 26 JULY 1, 2012]: Sec. 3. (a) The physician last in attendance upon the
 27 deceased or the person in charge of interment shall file a certificate of
 28 death or of stillbirth with the local health officer of the jurisdiction in
 29 which the death or stillbirth occurred.

30 (b) Notwithstanding subsection (a), beginning January 1, 2011, **for**
 31 **a death occurring after December 31, 2010**, the physician last in
 32 attendance upon the deceased or the person in charge of interment shall
 33 use the Indiana death registration system established under
 34 IC 16-37-1-3.1 to file a certificate of death with the local health officer
 35 of the jurisdiction in which the death occurred. The local health officer
 36 shall retain a copy of the certificate of death.

37 SECTION 4. IC 16-37-3-5, AS AMENDED BY P.L.156-2011,
 38 SECTION 37, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 39 JULY 1, 2012]: Sec. 5. (a) If the person in charge of interment initiates
 40 the process, the person in charge of interment shall present a certificate
 41 of death to the physician last in attendance upon the deceased, who
 42 shall certify the cause of death upon the certificate of death or of

COPY



1 stillbirth.

2 (b) Notwithstanding subsection (a), beginning January 1, 2011, **for**
 3 **a death occurring after December 31, 2010**, using the Indiana death
 4 registration system established under IC 16-37-1-3.1, if the person in
 5 charge of interment initiates the process, the person in charge of
 6 interment shall electronically provide a certificate of death to the
 7 physician last in attendance upon the deceased. The physician last in
 8 attendance upon the deceased shall electronically certify to the local
 9 health department the cause of death on the certificate of death, using
 10 the Indiana death registration system.

11 SECTION 5. IC 33-34-8-1, AS AMENDED BY P.L.176-2005,
 12 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 13 JULY 1, 2012]: Sec. 1. (a) The following fees and costs apply to cases
 14 in the small claims court:

15 (1) A township docket fee of five dollars (\$5) plus forty-five
 16 percent (45%) of the infraction or ordinance violation costs fee
 17 under IC 33-37-4-2.

18 (2) The bailiff's service of process by registered or certified mail
 19 fee of thirteen dollars (\$13) for each service.

20 (3) The cost for the personal service of process by the bailiff or
 21 other process server of thirteen dollars (\$13) for each service.

22 (4) Witness fees, if any, in the amount provided by IC 33-37-10-3
 23 to be taxed and charged in the circuit court.

24 (5) A redocketing fee, if any, of five dollars (\$5).

25 (6) A document storage fee under IC 33-37-5-20.

26 (7) An automated record keeping fee under IC 33-37-5-21.

27 (8) A late fee, if any, under IC 33-37-5-22.

28 (9) A public defense administration fee under IC 33-37-5-21.2.

29 (10) A judicial insurance adjustment fee under IC 33-37-5-25.

30 (11) A judicial salaries fee under IC 33-37-5-26.

31 (12) A court administration fee under IC 33-37-5-27.

32 The docket fee and the cost for the initial service of process shall be
 33 paid at the institution of a case. The cost of service after the initial
 34 service shall be assessed and paid after service has been made. The
 35 cost of witness fees shall be paid before the witnesses are called.

36 (b) If the amount of the township docket fee computed under
 37 subsection (a)(1) is not equal to a whole number, the amount shall be
 38 rounded to the next highest whole number.

39 **(c) The fees prescribed in this section may not be collected from**
 40 **the state or a political subdivision in an action brought by or on**
 41 **behalf of the state or the political subdivision.**

42 SECTION 6. IC 36-1-11-1, AS AMENDED BY P.L.2-2006,



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1 SECTION 188, IS AMENDED TO READ AS FOLLOWS
 2 [EFFECTIVE JULY 1, 2012]: Sec. 1. (a) Except as provided in
 3 subsection (b), this chapter applies to the disposal of property by:

- 4 (1) political subdivisions; and
 5 (2) their agencies.

6 (b) This chapter does not apply to the following:

7 (1) The disposal of property under an urban homesteading
 8 program under IC 36-7-17.

9 (2) The lease of school buildings under IC 20-47.

10 (3) The sale of land to a lessor in a lease-purchase contract under
 11 IC 36-1-10.

12 (4) The disposal of property by a redevelopment commission
 13 established under IC 36-7.

14 (5) The leasing of property by a board of aviation commissioners
 15 established under IC 8-22-2 or an airport authority established
 16 under IC 8-22-3.

17 (6) The disposal of a municipally owned utility under IC 8-1.5.

18 (7) The sale or lease of property by a unit to an Indiana nonprofit
 19 corporation organized for educational, literary, scientific,
 20 religious, or charitable purposes that is exempt from federal
 21 income taxation under Section 501 of the Internal Revenue Code
 22 or the sale or reletting of that property by the nonprofit
 23 corporation.

24 (8) The disposal of surplus property by a hospital established and
 25 operated under IC 16-22-1 through IC 16-22-5, IC 16-22-8,
 26 IC 16-23-1, or IC 16-24-1.

27 (9) The sale or lease of property acquired under IC 36-7-13 for
 28 industrial development.

29 (10) The sale, lease, or disposal of property by a local hospital
 30 authority under IC 5-1-4.

31 (11) The sale or other disposition of property by a county or
 32 municipality to finance housing under IC 5-20-2.

33 (12) The disposition of property by a soil and water conservation
 34 district under IC 14-32.

35 (13) The **sale, lease, or** disposal of ~~surplus~~ property by the health
 36 and hospital corporation established and operated under
 37 IC 16-22-8.

38 (14) The disposal of personal property by a library board under
 39 IC 36-12-3-5(c).

40 (15) The sale or disposal of property by the historic preservation
 41 commission under IC 36-7-11.1.

42 (16) The disposal of an interest in property by a housing authority

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- 1 under IC 36-7-18.
- 2 (17) The disposal of property under IC 36-9-37-26.
- 3 (18) The disposal of property used for park purposes under
- 4 IC 36-10-7-8.
- 5 (19) The disposal of textbooks that will no longer be used by
- 6 school corporations under IC 20-26-12.
- 7 (20) The disposal of residential structures or improvements by a
- 8 municipal corporation without consideration to:
- 9 (A) a governmental entity; or
- 10 (B) a nonprofit corporation that is organized to expand the
- 11 supply or sustain the existing supply of good quality,
- 12 affordable housing for residents of Indiana having low or
- 13 moderate incomes.
- 14 (21) The disposal of historic property without consideration to a
- 15 nonprofit corporation whose charter or articles of incorporation
- 16 allows the corporation to take action for the preservation of
- 17 historic property. As used in this subdivision, "historic property"
- 18 means property that is:
- 19 (A) listed on the National Register of Historic Places; or
- 20 (B) eligible for listing on the National Register of Historic
- 21 Places, as determined by the division of historic preservation
- 22 and archeology of the department of natural resources.
- 23 (22) The disposal of real property without consideration to:
- 24 (A) a governmental agency; or
- 25 (B) a nonprofit corporation that exists for the primary purpose
- 26 of enhancing the environment;
- 27 when the property is to be used for compliance with a permit or
- 28 an order issued by a federal or state regulatory agency to mitigate
- 29 an adverse environmental impact.
- 30 (23) The disposal of property to a person under an agreement
- 31 between the person and a political subdivision or an agency of a
- 32 political subdivision under IC 5-23.
- 33 (24) The disposal of residential real property pursuant to a federal
- 34 aviation regulation (14 CFR 150) Airport Noise Compatibility
- 35 Planning Program as approved by the Federal Aviation
- 36 Administration.

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