Reprinted
February 8, 2013

SENATE BILL No. 362

DIGEST OF SB 362 (Updated February 4, 2013 2:35 pm - DI 84)

Citations Affected: IC 35-31.5; IC 35-42.

Synopsis: Battery by body waste. Makes it battery by body waste, a Class D felony, for a person to knowingly or intentionally: (1) in a rude, insolent, or angry manner place blood or another body fluid or waste on an employee, an agent, or a volunteer of a health care provider identified as such and while engaged in the performance of official duties; or (2) coerce another person to place blood or another body fluid or waste on the employee, agent, or volunteer of a health care provider. Enhances the penalties for committing the offense if the blood, bodily fluid, or waste is infected with hepatitis B or hepatitis C, HIV, or tuberculosis.

Effective: July 1, 2013.

Crider, Miller Patricia,
Steele, Randolph

January 8, 2013, read first time and referred to Committee on Corrections & Criminal Law.
January 31, 2013, reported favorably — Do Pass.
February 4, 2013, read second time, ordered engrossed.
February 5, 2013, engrossed; returned to second reading.
February 7, 2013, reread second time, amended, ordered engrossed.

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First Regular Session 118th General Assembly (2013)

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 2012 Regular Session of the General Assembly.

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SENATE BILL No. 362

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:

SECTION 1. IC 35-31.5-2-151.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: **Sec. 151.5. "Health care professional", for purposes of IC 35-42-2-6, has the meaning set forth in IC 35-42-2-6.**

SECTION 2. IC 35-42-2-6, AS AMENDED BY P.L.77-2012, SECTION 62, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 6. (a) As used in this section, "corrections officer" includes a person employed by:

(1) the department of correction;
(2) a law enforcement agency;
(3) a probation department;
(4) a county jail; or
(5) a circuit, superior, county, probate, city, or town court.

(b) As used in this section, "firefighter" means a person who is a:

(1) full-time, salaried firefighter;
(2) part-time, paid firefighter; or

(3) volunteer firefighter (as defined in IC 36-8-12-2).

(c) As used in this section, "emergency medical responder" means a person who:

(1) is certified under IC 16-31 and who meets the Indiana emergency medical services commission's standards for emergency medical responder certification; and

(2) responds to an incident requiring emergency medical services.

(d) As used in this section, "health care professional" means:

(1) any person licensed, registered, or certified as any health care professional who provides treatment or other health related professional services to an individual; or

(2) a security guard or other person who provides security services for a health facility or other location in which treatment is provided to an individual by a person described in subdivision (1).

~~(d)~~ **(e)** As used in this section, "human immunodeficiency virus (HIV)" includes acquired immune deficiency syndrome (AIDS) and AIDS related complex.

~~(e)~~ **(f)** A person who knowingly or intentionally in a rude, insolent, or angry manner places blood or another body fluid or waste on a law enforcement officer, **a** firefighter, **an** emergency medical responder, **a** corrections officer, ~~or~~ **a** department of child services employee, **or a health care professional** identified as such and while engaged in the performance of official duties, or coerces another person to place blood or another body fluid or waste on the law enforcement officer, firefighter, emergency medical responder, corrections officer, ~~or~~ department of child services employee, **or health care professional** commits battery by body waste, a Class D felony. However, the offense is:

(1) a Class C felony if the person knew or recklessly failed to know that the blood, bodily fluid, or waste was infected with:

(A) hepatitis B or hepatitis C;

(B) HIV; or

(C) tuberculosis;

(2) a Class B felony if:

(A) the person knew or recklessly failed to know that the blood, bodily fluid, or waste was infected with hepatitis B or hepatitis C and the offense results in the transmission of hepatitis B or hepatitis C to the other person; or

(B) the person knew or recklessly failed to know that the blood, bodily fluid, or waste was infected with tuberculosis and the offense results in the transmission of tuberculosis to

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the other person; and

(3) a Class A felony if:

(A) the person knew or recklessly failed to know that the blood, bodily fluid, or waste was infected with HIV; and

(B) the offense results in the transmission of HIV to the other person.

~~(f)~~ **(g)** A person who knowingly or intentionally in a rude, an insolent, or an angry manner places human blood, semen, urine, or fecal waste on another person commits battery by body waste, a Class A misdemeanor. However, the offense is:

(1) a Class D felony if the person knew or recklessly failed to know that the blood, semen, urine, or fecal waste was infected with:

(A) hepatitis B or hepatitis C;

(B) HIV; or

(C) tuberculosis;

(2) a Class C felony if:

(A) the person knew or recklessly failed to know that the blood, semen, urine, or fecal waste was infected with hepatitis B or hepatitis C and the offense results in the transmission of hepatitis B or hepatitis C to the other person; or

(B) the person knew or recklessly failed to know that the blood, semen, urine, or fecal waste was infected with tuberculosis and the offense results in the transmission of tuberculosis to the other person; and

(3) a Class B felony if:

(A) the person knew or recklessly failed to know that the blood, semen, urine, or fecal waste was infected with HIV; and

(B) the offense results in the transmission of HIV to the other person.

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COMMITTEE REPORT

Madam President: The Senate Committee on Corrections and Criminal Law, to which was referred Senate Bill No. 362, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is made to Senate Bill 362 as introduced.)

YOUNG R MICHAEL, Chairperson

Committee Vote: Yeas 10, Nays 0.

SENATE MOTION

Madam President: I move that Senate Bill 362, which is eligible for third reading, be returned to second reading for purposes of amendment.

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SENATE MOTION

Madam President: I move that Senate Bill 362 be amended to read as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 35-31.5-2-151.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: **Sec. 151.5. "Health care professional", for purposes of IC 35-42-2-6, has the meaning set forth in IC 35-42-2-6.**".

Page 2, line 3, delete ""health care provider" has the" and insert "**health care professional" means:**

(1) any person licensed, registered, or certified as any health care professional who provides treatment or other health related professional services to an individual; or

(2) a security guard or other person who provides security services for a health facility or other location in which treatment is provided to an individual by a person described in subdivision (1).".

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Page 2, delete line 4.

Page 2, line 11, delete "an" and insert "**a health care professional**".

Page 2, delete line 12.

Page 2, line 17, delete "employee, agent, or volunteer of a health care" and insert "**health care professional**".

Page 2, line 18, delete "provider".

Renumber all SECTIONS consecutively.

(Reference is to SB 362 as printed February 1, 2013.)

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