

IC 16-41-9

Chapter 9. Communicable Disease: Imposition of Restrictions on Individuals With Certain Communicable or Dangerous Communicable Diseases

IC 16-41-9-0.1

Application of certain amendments to chapter

Sec. 0.1. The addition of section 1.5(t) of this chapter by P.L.138-2006 applies only to crimes committed after June 30, 2006. *As added by P.L.220-2011, SEC.320.*

IC 16-41-9-1

Repealed

(Repealed by P.L.138-2006, SEC.14.)

IC 16-41-9-1.5

Isolation; quarantine; notice; hearing; orders; renewal; crime; rules

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 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 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 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 issue an 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.

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

- (1) isolation or quarantine should be imposed on an individual; and
- (2) the individual may expose an uninfected individual to a dangerous communicable disease or outbreak before the individual can be provided with notice and an opportunity to be heard.

The verified petition must include 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.

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

- (1) an individual has been infected or exposed to a dangerous communicable disease or outbreak;
- (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; and
- (3) the individual may expose an uninfected individual to a dangerous communicable disease or outbreak before the individual can be provided with notice and an opportunity to be heard;

the court may issue an emergency order imposing isolation or quarantine on the individual. The court shall establish the duration and other conditions 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.

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

- (1) in a nonadversarial, recorded hearing before the judge;
- (2) orally by telephone or radio;

(3) in writing by facsimile transmission (fax); or

(4) through other electronic means approved by the court.

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

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

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

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

(k) The public health authority may issue an immediate order imposing isolation or quarantine on an individual if exigent circumstances, including the number of affected individuals, exist that make it impracticable for the public health authority to seek an order from a court, and obtaining the individual's voluntary compliance is or has proven impracticable or ineffective. An immediate order of isolation or quarantine expires after seventy-two (72) hours, excluding Saturdays, Sundays, and legal holidays, unless renewed in accordance with subsection (l). The public health authority shall establish the other conditions of isolation or quarantine. The public health authority shall impose the least restrictive conditions of isolation or quarantine that are consistent with the protection of the public. If the immediate order applies to a group of individuals and it is impracticable to provide individual notice, the public health authority shall post a copy of the order where it is likely to be seen by individuals subject to the order.

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

(1) By filing a petition to renew the emergency order of isolation or quarantine or the immediate order of isolation or

quarantine with:

- (A) the court that granted the emergency order of isolation or quarantine; or
- (B) a circuit or superior court, in the case of an immediate order.

The petition for renewal must include a brief description of the facts supporting the public health authority's belief that the individual who is the subject of the petition should remain in isolation or quarantine and 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.

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

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

- (A) appear, unless the court finds that the individual's personal appearance may expose an uninfected person to a dangerous communicable disease or outbreak;
- (B) cross-examine witnesses; and
- (C) counsel, including court appointed counsel in accordance with subsection (c).

(4) If:

- (A) the petition applies to a group of individuals; and
 - (B) it is impracticable to provide individual notice;
- by posting the petition in a conspicuous location on the isolation 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 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;

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

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

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

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

(t) A person who knowingly or intentionally violates a condition of isolation or quarantine under this chapter commits violating

quarantine or isolation, a Class A misdemeanor.

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

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

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

As added by P.L.138-2006, SEC.6. Amended by P.L.1-2007, SEC.137.

IC 16-41-9-1.6

Actions of public health authority in event of quarantine

Sec. 1.6. (a) A public health authority may impose or petition a court to impose a quarantine and do the following:

- (1) Distribute information to the public concerning:
 - (A) the risks of the disease;
 - (B) how the disease is transmitted;
 - (C) available precautions to reduce the risk of contracting the disease;
 - (D) the symptoms of the disease; and
 - (E) available medical or nonmedical treatments available for the disease.
- (2) Instruct the public concerning social distancing.
- (3) Request that the public inform the public health authority or a law enforcement agency if a family member contracts the disease.
- (4) Instruct the public on self quarantine and provide a distinctive means of identifying a home that is self quarantined.
- (5) Instruct the public on the use of masks, gloves, disinfectant, and other means of reducing exposure to the disease.
- (6) Close schools, athletic events, and other nonessential situations in which people gather.

If a quarantine is imposed under section 1.5 of this chapter, the public health authority shall ensure that, to the extent possible, quarantined individuals have sufficient supplies to remain in their own home.

(b) If an out of home, nonhospital quarantine is imposed on an individual, the individual shall be housed as close as possible to the individual's residence.

(c) In exercising the powers described in this section or in section 1.5 of this chapter, the public health authority may not prohibit a person lawfully permitted to possess a firearm from possessing one (1) or more firearms unless the person is quarantined in a mass quarantine location. The public health authority may not remove a firearm from the person's home, even if the person is quarantined in a mass quarantine location.

(d) This section does not prohibit a public health authority from adopting rules and enforcing rules to implement this section if the

rules are not inconsistent with this section.

As added by P.L.138-2006, SEC.7. Amended by P.L.1-2007, SEC.138.

IC 16-41-9-1.7

Immunization programs

Sec. 1.7. (a) An immunization program established by a public health authority to combat a public health emergency involving a dangerous communicable disease must comply with the following:

(1) The state department must develop and distribute or post information concerning the risks and benefits of immunization.

(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.

As added by P.L.138-2006, SEC.8.

IC 16-41-9-2

Repealed

(Repealed by P.L.138-2006, SEC.14.)

IC 16-41-9-3

Infected students; exclusion from school

Sec. 3. (a) The local health officer may exclude from school a student who has a dangerous 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 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.

As added by P.L.2-1993, SEC.24.

IC 16-41-9-4

Repealed

(Repealed by P.L.138-2006, SEC.14.)

IC 16-41-9-5

Mentally ill and dangerous or gravely disabled carriers; detention; reports

Sec. 5. (a) If a designated health official determines that a carrier has a dangerous communicable disease and has reasonable grounds to believe that the carrier 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 apprehended, detained, and examined. The designated health official may provide to the superintendent of the psychiatric hospital or center or the attending physician information about the carrier's communicable disease status. Communications under this subsection do not constitute a breach of confidentiality.

(b) If the written report required under IC 12-26-5-5 states there is probable cause to believe the carrier is mentally ill and either dangerous or gravely disabled and requires continuing care and treatment, proceedings may continue under IC 12-26.

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

As added by P.L.2-1993, SEC.24.

IC 16-41-9-6

Detained carriers; isolation; unauthorized absences

Sec. 6. (a) The chief medical officer of a hospital or other institutional facility may direct that a carrier detained under this article be placed apart from the others and restrained from leaving the facility. A carrier detained under this article shall observe all the rules of the facility or is subject to further action before the committing court.

(b) A carrier detained under this article who leaves a tuberculosis hospital or other institutional facility without being authorized to leave or who fails to return from an authorized leave without having been formally discharged is considered absent without leave.

(c) The sheriff of the county in which a carrier referred to in subsection (b) is found shall apprehend the carrier and return the carrier to the facility at which the carrier was being detained upon written request of the superintendent of the facility. Expenses incurred under this section are treated as expenses described in section 13 of this chapter.

As added by P.L.2-1993, SEC.24.

IC 16-41-9-7**Voluntarily admitted carriers; unauthorized absences; prevention of health threat**

Sec. 7. (a) A carrier who:

- (1) poses a serious and present danger to the health of others;
- (2) has been voluntarily admitted to a hospital or other facility for the treatment of tuberculosis or another dangerous communicable disease; and
- (3) who leaves the facility without authorized leave or against medical advice or who fails to return from authorized leave;

shall be reported to a health officer by the facility not more than twenty-four (24) hours after discovery of the carrier's absence.

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

As added by P.L.2-1993, SEC.24.

IC 16-41-9-8**Discharge reports; release orders**

Sec. 8. (a) A local health officer may file a report with the court that states that a carrier who has been detained under this article may be discharged without danger to the health or life of others.

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

As added by P.L.2-1993, SEC.24. Amended by P.L.138-2006, SEC.9; P.L.1-2007, SEC.139.

IC 16-41-9-9**Release of carriers from state penal institutions; advanced reports; jurisdiction of health officers**

Sec. 9. (a) Not more than thirty (30) days after the proposed release from a state penal institution of a prisoner who is known to have:

- (1) tuberculosis in a communicable stage; or
- (2) other dangerous communicable disease;

the chief administrative officer of the penal institution shall report to the state department the name, address, age, sex, and date of release of the prisoner.

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

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

As added by P.L.2-1993, SEC.24.

IC 16-41-9-10**Nonresident indigent carriers; transfer to legal residences**

Sec. 10. (a) The administrator of a hospital or other facility for the treatment of tuberculosis or other dangerous communicable disease

may transfer or authorize the transfer of a nonresident indigent carrier to the carrier's state or county of legal residence if the carrier is able to travel. If the carrier is unable to travel, the administrator may have the carrier hospitalized until the carrier is able to travel.

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

- (1) carrier under section 13 of this chapter; or
- (2) state department if the carrier cannot pay the full cost.

As added by P.L.2-1993, SEC.24.

IC 16-41-9-11

Repealed

(Repealed by P.L.138-2006, SEC.14.)

IC 16-41-9-12

Refusal of admission to facilities; actions against persons and licensed facilities

Sec. 12. (a) The superintendent or the chief executive officer of the facility to which a carrier 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.

As added by P.L.2-1993, SEC.24.

IC 16-41-9-13

Costs of care or treatment

Sec. 13. (a) The court shall determine what part of the cost of care or treatment ordered by the court, if any, the carrier can pay and whether there are other available sources of public or private funding responsible for payment of the carrier's care or treatment. The carrier shall provide the court documents and other information necessary to determine financial ability. If the carrier cannot pay the full cost of care and other sources of public or private funding responsible for

payment of the carrier's care or treatment are not available, the county is responsible for the cost. If the carrier:

- (1) provides inaccurate or misleading information; or
- (2) later becomes able to pay the full cost of care;

the carrier 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 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.

As added by P.L.2-1993, SEC.24. Amended by P.L.138-2006, SEC.10.

IC 16-41-9-14

Repealed

(Repealed by P.L.138-2006, SEC.14.)

IC 16-41-9-15

Cooperation to implement least restrictive but medically necessary procedures to protect public health

Sec. 15. In carrying out its duties under this chapter, a public health authority shall attempt to seek the cooperation of cases, carriers, contacts, or suspect cases to implement the least restrictive but medically necessary procedures to protect the public health.

As added by P.L.16-2009, SEC.26.