



January 26, 2023

HOUSE BILL No. 1198

DIGEST OF HB 1198 (Updated January 25, 2023 12:20 pm - DI 106)

Citations Affected: IC 16-41; IC 35-31.5; IC 35-42; IC 35-45; IC 35-52.

Synopsis: Serious communicable diseases. Removes certain sentencing enhancements for battery and malicious mischief that relate to human immunodeficiency virus (HIV). Repeals certain offenses concerning the donation, sale, or transfer of blood or semen that contains HIV. Defines "responding safety officer" and makes battery by body waste a Level 5 felony if committed against a responding safety officer and certain other circumstances apply. Makes it a Level 6 felony for a person with a serious communicable disease who is not in compliance with a treatment plan to engage in a high risk activity with another person and not inform the other person of the disease. Makes conforming amendments.

Effective: July 1, 2023.

**McNamara, Clere, Negele,
Vermilion**

January 10, 2023, read first time and referred to Committee on Courts and Criminal Code.
January 26, 2023, amended, reported — Do Pass.

HB 1198—LS 6672/DI 139



January 26, 2023

First Regular Session of the 123rd General Assembly (2023)

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 2022 Regular Session of the General Assembly.

HOUSE BILL No. 1198

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 16-41-8-1, AS AMENDED BY P.L.130-2021,
2 SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2023]: Sec. 1. (a) As used in this chapter, "potentially disease
4 transmitting offense" means any of the following:
5 (1) Battery (IC 35-42-2-1) or domestic battery (IC 35-42-2-1.3)
6 involving placing a bodily fluid or waste on another person.
7 (2) An offense relating to a criminal sexual act (as defined in
8 IC 35-31.5-2-216), if sexual intercourse or other sexual conduct
9 (as defined in IC 35-31.5-2-221.5) occurred.
10 The term includes an attempt to commit an offense, if sexual
11 intercourse or other sexual conduct (as defined in IC 35-31.5-2-221.5)
12 occurred, and a delinquent act that would be a crime if committed by
13 an adult.
14 (b) Except as provided in this chapter, a person may not disclose or
15 be compelled to disclose medical or epidemiological information
16 involving a communicable disease or other serious disease (as set forth
17 in the list published under IC 16-41-2-1). This information may not be

HB 1198—LS 6672/DI 139



1 released or made public upon subpoena or otherwise, except under the
2 following circumstances:

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

6 (2) Release may be made of medical or epidemiologic information
7 with the written consent of all individuals identified in the
8 information released.

9 (3) Release may be made of medical or epidemiologic information
10 to the extent necessary to enforce public health laws, laws
11 described in IC 31-37-19-4 through IC 31-37-19-6, IC 31-37-19-9
12 through IC 31-37-19-10, IC 31-37-19-12 through IC 31-37-19-23,
13 IC 35-38-1-7.1, and IC 35-45-21-1 **(before its repeal)** or to
14 protect the health or life of a named party.

15 (4) Release may be made of the medical information of a person
16 in accordance with this chapter.

17 (5) Release may be made of the medical information or
18 epidemiologic information of a person to an Indiana nonprofit
19 entity that performs health data services for health care providers
20 if the state department:

21 (A) determines that the release is necessary as part of a
22 response to a public health event, including an outbreak,
23 epidemic, or pandemic; and

24 (B) executes a data use agreement with the entity that specifies
25 the permitted use and disclosure of any released information.

26 (c) Except as provided in this chapter, a person responsible for
27 recording, reporting, or maintaining information required to be reported
28 under IC 16-41-2 who recklessly, knowingly, or intentionally discloses
29 or fails to protect medical or epidemiologic information classified as
30 confidential under this section commits a Class A misdemeanor.

31 (d) In addition to subsection (c), a public employee who violates this
32 section is subject to discharge or other disciplinary action under the
33 personnel rules of the agency that employs the employee.

34 (e) Release shall be made of the medical records concerning an
35 individual to:

36 (1) the individual;

37 (2) a person authorized in writing by the individual to receive the
38 medical records; or

39 (3) a coroner under IC 36-2-14-21.

40 (f) An individual may voluntarily disclose information about the
41 individual's communicable disease.

42 (g) The provisions of this section regarding confidentiality apply to



1 information obtained under IC 16-41-1 through IC 16-41-16.

2 SECTION 2. IC 16-41-12-15, AS AMENDED BY P.L.133-2020,
3 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
4 JULY 1, 2023]: Sec. 15. (a) A blood center shall require a blood donor
5 to provide to the blood center the following information:

- 6 (1) Name.
- 7 (2) Address.
- 8 (3) Date of birth.
- 9 (4) The blood donor's Social Security number, if the blood donor
10 is receiving monetary compensation for the donation.

11 (b) A blood center shall report the name and address of a blood
12 donor to the state department when a confirmatory test of the blood
13 donor's blood confirms the presence of antibodies to the human
14 immunodeficiency virus (HIV).

15 (c) A blood center shall provide to a blood donor information to
16 enable the blood donor to give informed consent to the procedures
17 required by this chapter or IC 16-36. The information required by this
18 subsection must be in the following form:

19 NOTICE

- 20 (1) This blood center performs a screening test for the human
21 immunodeficiency virus (HIV) on every donor's blood.
- 22 (2) This blood center reports to the state department of health the
23 name and address of a blood donor when a confirmatory test of
24 the blood donor's blood confirms the presence of antibodies to the
25 human immunodeficiency virus (HIV).
- 26 ~~(3) A person who recklessly, knowingly, or intentionally donates~~
27 ~~(excluding self-donations for stem cell transplantation, other~~
28 ~~autologous donations, or donations not intended by the blood~~
29 ~~center for distribution or use); sells, or transfers blood that~~
30 ~~contains antibodies for the human immunodeficiency virus (HIV)~~
31 ~~commits a criminal offense as described in IC 35-45-21-1.~~

32 SECTION 3. IC 16-41-14-13, AS AMENDED BY P.L.133-2020,
33 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
34 JULY 1, 2023]: Sec. 13. A practitioner shall provide information to a
35 semen donor to enable the semen donor to give informed consent to the
36 procedures required by this chapter. The information required by this
37 section must be in the following form:

38 NOTICE

- 39 (1) This facility performs a screening test for the human
40 immunodeficiency virus (HIV) on every donor's blood.
- 41 (2) This facility reports to the state department of health the name
42 and address of a semen donor or recipient when a confirmatory



1 test of the semen donor's blood or the recipient's blood confirms
 2 the presence of antibodies to the human immunodeficiency virus
 3 (HIV).

4 ~~(3) A person who, for the purpose of artificial insemination;~~
 5 ~~recklessly, knowingly, or intentionally donates, sells, or transfers~~
 6 ~~semen that contains antibodies for the human immunodeficiency~~
 7 ~~virus (HIV) commits a criminal offense as described in~~
 8 ~~IC 35-45-21-1.~~

9 SECTION 4. IC 16-41-14-17 IS REPEALED [EFFECTIVE JULY
 10 1, 2023]. Sec. 17. (a) This section does not apply to a person who
 11 transfers for research purposes semen that contains antibodies for the
 12 human immunodeficiency virus (HIV):

13 (b) A person who, for the purpose of artificial insemination;
 14 recklessly, knowingly, or intentionally donates, sells, or transfers semen
 15 that contains antibodies for the human immunodeficiency virus (HIV)
 16 commits transferring contaminated semen, a Level 5 felony. The
 17 offense is a Level 4 felony if the offense results in the transmission of
 18 the virus to another person.

19 SECTION 5. IC 35-31.5-2-152.5 IS REPEALED [EFFECTIVE
 20 JULY 1, 2023]. Sec. 152.5. "HIV", for purposes of IC 35-45-16, has the
 21 meaning set forth in IC 35-45-16-1.

22 SECTION 6. IC 35-42-2-1, AS AMENDED BY P.L.142-2020,
 23 SECTION 63, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 24 JULY 1, 2023]: Sec. 1. (a) As used in this section, "public safety
 25 official" means:

- 26 (1) a law enforcement officer, including an alcoholic beverage
- 27 enforcement officer;
- 28 (2) an employee of a penal facility or a juvenile detention facility
- 29 (as defined in IC 31-9-2-71);
- 30 (3) an employee of the department of correction;
- 31 (4) a probation officer;
- 32 (5) a parole officer;
- 33 (6) a community corrections worker;
- 34 (7) a home detention officer;
- 35 (8) a department of child services employee;
- 36 (9) a firefighter;
- 37 (10) an emergency medical services provider;
- 38 (11) a judicial officer;
- 39 (12) a bailiff of any court; or
- 40 (13) a special deputy (as described in IC 36-8-10-10.6).

41 (b) As used in this section, "relative" means an individual related by
 42 blood, half-blood, adoption, marriage, or remarriage, including:



- 1 (1) a spouse;
 2 (2) a parent or stepparent;
 3 (3) a child or stepchild;
 4 (4) a grandchild or stepgrandchild;
 5 (5) a grandparent or stepgrandparent;
 6 (6) a brother, sister, stepbrother, or stepsister;
 7 (7) a niece or nephew;
 8 (8) an aunt or uncle;
 9 (9) a daughter-in-law or son-in-law;
 10 (10) a mother-in-law or father-in-law; or
 11 (11) a first cousin.
- 12 (c) Except as provided in subsections (d) through (k), a person who
 13 knowingly or intentionally:
 14 (1) touches another person in a rude, insolent, or angry manner;
 15 or
 16 (2) in a rude, insolent, or angry manner places any bodily fluid or
 17 waste on another person;
 18 commits battery, a Class B misdemeanor.
- 19 (d) The offense described in subsection (c)(1) or (c)(2) is a Class A
 20 misdemeanor if it:
 21 (1) results in bodily injury to any other person; or
 22 (2) is committed against a member of a foster family home (as
 23 defined in IC 35-31.5-2-139.3) by a person who is not a resident
 24 of the foster family home if the person who committed the offense
 25 is a relative of a person who lived in the foster family home at the
 26 time of the offense.
- 27 (e) The offense described in subsection (c)(1) or (c)(2) is a Level 6
 28 felony if one (1) or more of the following apply:
 29 (1) The offense results in moderate bodily injury to any other
 30 person.
 31 (2) The offense is committed against a public safety official while
 32 the official is engaged in the official's official duty.
 33 (3) The offense is committed against a person less than fourteen
 34 (14) years of age and is committed by a person at least eighteen
 35 (18) years of age.
 36 (4) The offense is committed against a person of any age who has
 37 a mental or physical disability and is committed by a person
 38 having the care of the person with the mental or physical
 39 disability, whether the care is assumed voluntarily or because of
 40 a legal obligation.
 41 (5) The offense is committed against an endangered adult (as
 42 defined in IC 12-10-3-2).



- 1 (6) The offense:
 2 (A) is committed against a member of a foster family home (as
 3 defined in IC 35-31.5-2-139.3) by a person who is not a
 4 resident of the foster family home if the person who committed
 5 the offense is a relative of a person who lived in the foster
 6 family home at the time of the offense; and
 7 (B) results in bodily injury to the member of the foster family.
 8 (f) The offense described in subsection (c)(2) is a Level 6 felony if
 9 the person knew or recklessly failed to know that the bodily fluid or
 10 waste placed on another person was infected with hepatitis **or**
 11 tuberculosis. ~~or human immunodeficiency virus.~~
 12 (g) The offense described in subsection (c)(1) or (c)(2) is a Level 5
 13 felony if one (1) or more of the following apply:
 14 (1) The offense results in serious bodily injury to another person.
 15 (2) The offense is committed with a deadly weapon.
 16 (3) The offense results in bodily injury to a pregnant woman if the
 17 person knew of the pregnancy.
 18 (4) The person has a previous conviction for a battery offense
 19 included in this chapter against the same victim.
 20 (5) The offense results in bodily injury to one (1) or more of the
 21 following:
 22 (A) A public safety official while the official is engaged in the
 23 official's official duties.
 24 (B) A person less than fourteen (14) years of age if the offense
 25 is committed by a person at least eighteen (18) years of age.
 26 (C) A person who has a mental or physical disability if the
 27 offense is committed by an individual having care of the
 28 person with the disability, regardless of whether the care is
 29 assumed voluntarily or because of a legal obligation.
 30 (D) An endangered adult (as defined in IC 12-10-3-2).
 31 (h) The offense described in subsection (c)(2) is a Level 5 felony if:
 32 (1) the person knew or recklessly failed to know that the bodily
 33 fluid or waste placed on another person was infected with
 34 hepatitis **or** tuberculosis; ~~or human immunodeficiency virus;~~ and
 35 (2) the person placed the bodily fluid or waste on a public safety
 36 official.
 37 (i) The offense described in subsection (c)(1) or (c)(2) is a Level 4
 38 felony if it results in serious bodily injury to an endangered adult (as
 39 defined in IC 12-10-3-2).
 40 (j) The offense described in subsection (c)(1) or (c)(2) is a Level 3
 41 felony if it results in serious bodily injury to a person less than fourteen
 42 (14) years of age if the offense is committed by a person at least



1 eighteen (18) years of age.

2 (k) The offense described in subsection (c)(1) or (c)(2) is a Level 2
3 felony if it results in the death of one (1) or more of the following:

- 4 (1) A person less than fourteen (14) years of age if the offense is
5 committed by a person at least eighteen (18) years of age.
6 (2) An endangered adult (as defined in IC 12-10-3-2).

7 **(l) As used in this subsection, "responding safety officer" means**
8 **the following:**

- 9 **(1) A law enforcement officer.**
10 **(2) An employee of a penal facility or a juvenile detention**
11 **facility (as defined in IC 31-9-2-71).**
12 **(3) An employee of the department of correction.**
13 **(4) A firefighter.**
14 **(5) A community corrections worker.**
15 **(6) An emergency medical services provider.**
16 **(7) A judicial officer.**
17 **(8) A special deputy (as described in IC 36-8-10-10.6).**

18 **The offense described in subsection (c)(2) is a Level 5 felony if the**
19 **person placed a bodily fluid (as defined in IC 35-45-16-2(a)(1)) on**
20 **a responding safety officer, and the person knew or recklessly**
21 **failed to know that the bodily fluid was infected with hepatitis,**
22 **tuberculosis, or human immunodeficiency virus.**

23 SECTION 7. IC 35-45-16-1 IS REPEALED [EFFECTIVE JULY 1,
24 2023]. Sec. 1. As used in this chapter, "HIV" refers to the human
25 immunodeficiency virus.

26 SECTION 8. IC 35-45-16-2, AS AMENDED BY P.L.158-2013,
27 SECTION 545, IS AMENDED TO READ AS FOLLOWS
28 [EFFECTIVE JULY 1, 2023]: Sec. 2. (a) As used in this section, "body
29 fluid" means:

- 30 (1) blood;
31 (2) saliva;
32 (3) sputum;
33 (4) semen;
34 (5) vaginal secretions;
35 (6) human milk;
36 (7) urine;
37 (8) sweat;
38 (9) tears;
39 (10) any other liquid produced by the body; or
40 (11) any aerosol generated form of liquids listed in this
41 subsection.

42 (b) As used in this section, "infectious hepatitis" means:



- 1 (1) hepatitis A;
 2 (2) hepatitis B;
 3 (3) hepatitis C;
 4 (4) hepatitis D;
 5 (5) hepatitis E; or
 6 (6) hepatitis G.
- 7 (c) A person who recklessly, knowingly, or intentionally places
 8 human:
 9 (1) body fluid; or
 10 (2) fecal waste;
 11 in a location with the intent that another person will involuntarily touch
 12 the body fluid or fecal waste commits malicious mischief, a Class B
 13 misdemeanor.
- 14 (d) An offense described in subsection (c) is a:
 15 (1) Level 6 felony if the person knew or recklessly failed to know
 16 that the body fluid or fecal waste was infected with:
 17 (A) infectious hepatitis; **or**
 18 ~~(B) HIV; or~~
 19 ~~(C) (B) tuberculosis; and~~
 20 (2) Level 5 felony if:
 21 (A) the person knew or recklessly failed to know that the body
 22 fluid or fecal waste was infected with infectious hepatitis and
 23 the offense results in the transmission of infectious hepatitis to
 24 the other person; or
 25 (B) the person knew or recklessly failed to know that the body
 26 fluid or fecal waste was infected with tuberculosis and the
 27 offense results in the transmission of tuberculosis to the other
 28 person. **and**
 29 ~~(3) Level 4 felony if:~~
 30 ~~(A) the person knew or recklessly failed to know that the body~~
 31 ~~fluid or fecal waste was infected with HIV; and~~
 32 ~~(B) the offense results in the transmission of HIV to the other~~
 33 ~~person.~~
- 34 (e) A person who recklessly, knowingly, or intentionally places
 35 human:
 36 (1) body fluid; or
 37 (2) fecal waste;
 38 in a location with the intent that another person will ingest the body
 39 fluid or fecal waste commits malicious mischief with food, a Class A
 40 misdemeanor.
- 41 (f) An offense described in subsection (e) is:
 42 (1) a Level 6 felony if the person knew or recklessly failed to



1 know that the body fluid or fecal waste was infected with:

2 (A) infectious hepatitis; **or**

3 ~~(B) HIV; or~~

4 ~~(C) (B) tuberculosis; and~~

5 (2) a Level 5 felony if:

6 (A) the person knew or recklessly failed to know that the body
7 fluid or fecal waste was infected with infectious hepatitis and
8 the offense results in the transmission of infectious hepatitis to
9 the other person; or

10 (B) the person knew or recklessly failed to know that the body
11 fluid or fecal waste was infected with tuberculosis and the
12 offense results in the transmission of tuberculosis to the other
13 person. **and**

14 ~~(3) a Level 4 felony if:~~

15 ~~(A) the person knew or recklessly failed to know that the body
16 fluid or fecal waste was infected with HIV; and~~

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

19 SECTION 9. IC 35-45-21-1 IS REPEALED [EFFECTIVE JULY 1,
20 2023]. Sec. 1: (a) As used in this section, "blood" has the meaning set
21 forth in IC 16-41-12-2.5.

22 (b) A person who recklessly, knowingly, or intentionally donates,
23 sells, or transfers blood or semen for artificial insemination (as defined
24 in IC 16-41-14-2) that contains the human immunodeficiency virus
25 (HIV) commits transferring contaminated body fluids, a Level 5 felony.

26 (c) However, the offense under subsection (b) is a Level 3 felony if
27 it results in the transmission of the human immunodeficiency virus
28 (HIV) to any person other than the defendant.

29 (d) This section does not apply to:

30 (1) a person who, for reasons of privacy, donates, sells, or
31 transfers blood at a blood center (as defined in IC 16-41-12-3)
32 after the person has notified the blood center that the blood must
33 be disposed of and may not be used for any purpose;

34 (2) a person who transfers blood semen, or another body fluid that
35 contains the human immunodeficiency virus (HIV) for research
36 purposes; or

37 (3) a person who is an autologous blood donor for stem cell
38 transplantation.

39 SECTION 10. IC 35-45-21-3, AS ADDED BY P.L.158-2013,
40 SECTION 547, IS AMENDED TO READ AS FOLLOWS
41 [EFFECTIVE JULY 1, 2023]: Sec. 3: (a) A person who recklessly
42 violates or fails to comply with IC 16-41-7 commits a Class B



1 misdemeanor.
2 (b) A person who knowingly or intentionally violates or fails to
3 comply with IC 16-41-7-1 commits a Level 6 felony.
4 (c) Each day a violation described in this section continues
5 constitutes a separate offense.
6 **Sec. 3. A person who, knowing that the person has a serious**
7 **communicable disease (as described in IC 16-41-7-1(a)) and who is**
8 **not in compliance with a physician directed treatment plan,**
9 **knowingly or intentionally:**
10 (1) engages in high risk activity (as defined by
11 IC 16-41-7-1(b)) with another person; and
12 (2) fails to inform the other person that the person has a
13 serious communicable disease;
14 commits a Level 6 felony.
15 SECTION 11. IC 35-52-16-58 IS REPEALED [EFFECTIVE JULY
16 1, 2023]. Sec. 58. IC 16-41-14-17 defines a crime concerning
17 communicable diseases.



COMMITTEE REPORT

Mr. Speaker: Your Committee on Courts and Criminal Code, to which was referred House Bill 1198, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 7, between lines 6 and 7, begin a new paragraph and insert:

"(l) As used in this subsection, "responding safety officer" means the following:

- (1) A law enforcement officer.**
- (2) An employee of a penal facility or a juvenile detention facility (as defined in IC 31-9-2-71).**
- (3) An employee of the department of correction.**
- (4) A firefighter.**
- (5) A community corrections worker.**
- (6) An emergency medical services provider.**
- (7) A judicial officer.**
- (8) A special deputy (as described in IC 36-8-10-10.6).**

The offense described in subsection (c)(2) is a Level 5 felony if the person placed a bodily fluid (as defined in IC 35-45-16-2(a)(1)) on a responding safety officer, and the person knew or recklessly failed to know that the bodily fluid was infected with hepatitis, tuberculosis, or human immunodeficiency virus."

Page 9, delete lines 23 through 33, begin a new paragraph and insert:

"SECTION 10. IC 35-45-21-3, AS ADDED BY P.L.158-2013, SECTION 547, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 3: (a) A person who recklessly violates or fails to comply with IC 16-41-7 commits a Class B misdemeanor:

(b) A person who knowingly or intentionally violates or fails to comply with IC 16-41-7-1 commits a Level 6 felony:

(c) Each day a violation described in this section continues constitutes a separate offense:

Sec. 3. A person who, knowing that the person has a serious communicable disease (as described in IC 16-41-7-1(a)) and who is not in compliance with a physician directed treatment plan, knowingly or intentionally:

- (1) engages in high risk activity (as defined by IC 16-41-7-1(b)) with another person; and**
- (2) fails to inform the other person that the person has a serious communicable disease;**



commits a Level 6 felony."

and when so amended that said bill do pass.

(Reference is to HB 1198 as introduced.)

MCNAMARA

Committee Vote: yeas 12, nays 1.

