



March 26, 2021

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# ENGROSSED HOUSE BILL No. 1340

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DIGEST OF HB 1340 (Updated March 24, 2021 12:21 pm - DI 104)

**Citations Affected:** IC 16-18; IC 16-41; IC 20-19; IC 34-30; IC 35-31.5; IC 35-38; IC 35-42; IC 35-45.

**Synopsis:** Human immunodeficiency virus. Replaces statutory references to "dangerous communicable disease" with "serious communicable disease". Replaces statutory references to "carrier" with "individual with a communicable disease". Makes conforming amendments.

**Effective:** July 1, 2021.

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## Clere, Barrett, Cook, Fleming

(SENATE SPONSORS — BECKER, GLICK, CRIDER, BREAUX, YODER,  
FORD J.D.)

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January 14, 2021, read first time and referred to Committee on Public Health.  
February 8, 2021, reported — Do Pass.  
February 11, 2021, read second time, ordered engrossed.  
February 12, 2021, engrossed.  
February 15, 2021, read third time, passed. Yeas 89, nays 2.

SENATE ACTION

February 23, 2021, read first time and referred to Committee on Health and Provider Services.  
March 25, 2021, amended, reported favorably — Do Pass.

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EH 1340—LS 7400/DI 123





March 26, 2021

First Regular Session of the 122nd General Assembly (2021)

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 2020 Regular Session of the General Assembly.

## ENGROSSED HOUSE BILL No. 1340

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 16-18-2-166 IS AMENDED TO READ AS  
2 FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 166. "Health directive",  
3 for purposes of IC 16-41, means:  
4 (1) a written statement; or  
5 (2) in an emergency, an oral statement followed by a written  
6 statement within seventy-two (72) hours;  
7 to a ~~carrier~~ **an individual with a communicable disease** issued by a  
8 designated health official under IC 16-41.  
9 SECTION 2. IC 16-18-2-250 IS AMENDED TO READ AS  
10 FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 250. "Noncompliant  
11 behavior", for purposes of IC 16-41, means behavior of ~~a carrier~~ **an**  
12 **individual with a communicable disease** that is not in compliance  
13 with a health directive.  
14 SECTION 3. IC 16-41-8-5, AS AMENDED BY P.L.112-2020,  
15 SECTION 30, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
16 JULY 1, 2021]: Sec. 5. (a) This section does not apply to medical  
17 testing of an individual for whom an indictment or information is filed

**EH 1340—LS 7400/DI 123**



1 for a sex crime and for whom a request to have the individual tested  
2 under section 6 of this chapter is filed.

3 (b) The following definitions apply throughout this section:

4 (1) "Bodily fluid" means blood, human waste, or any other bodily  
5 fluid.

6 (2) "Serious disease" means any of the following:

7 (A) Chancroid.

8 (B) Chlamydia.

9 (C) Gonorrhea.

10 (D) Hepatitis.

11 (E) Human immunodeficiency virus (HIV).

12 (F) Lymphogranuloma venereum.

13 (G) Syphilis.

14 (H) Tuberculosis.

15 (3) "Offense involving the transmission of a bodily fluid" means  
16 any offense (including a delinquent act that would be a crime if  
17 committed by an adult) in which a bodily fluid is transmitted from  
18 the defendant to the victim in connection with the commission of  
19 the offense.

20 (c) This subsection applies only to a defendant who has been  
21 charged with a potentially disease transmitting offense. At the request  
22 of an alleged victim of the offense, the parent, guardian, or custodian  
23 of an alleged victim who is less than eighteen (18) years of age, or the  
24 parent, guardian, or custodian of an alleged victim who is an  
25 endangered adult (as defined in IC 12-10-3-2), the prosecuting attorney  
26 shall petition a court to order a defendant charged with the commission  
27 of a potentially disease transmitting offense to submit to a screening  
28 test to determine whether the defendant is infected with a serious  
29 disease. In the petition, the prosecuting attorney must set forth  
30 information demonstrating that the defendant has committed a  
31 potentially disease transmitting offense. The court shall set the matter  
32 for hearing not later than forty-eight (48) hours after the prosecuting  
33 attorney files a petition under this subsection. The alleged victim, the  
34 parent, guardian, or custodian of an alleged victim who is less than  
35 eighteen (18) years of age, and the parent, guardian, or custodian of an  
36 alleged victim who is an endangered adult (as defined in IC 12-10-3-2)  
37 are entitled to receive notice of the hearing and are entitled to attend  
38 the hearing. The defendant and the defendant's counsel are entitled to  
39 receive notice of the hearing and are entitled to attend the hearing. If,  
40 following the hearing, the court finds probable cause to believe that the  
41 defendant has committed a potentially disease transmitting offense, the  
42 court may order the defendant to submit to a screening test for one (1)



1 or more serious diseases. If the defendant is charged with battery  
 2 (~~IC 35-42-2-1~~) or domestic battery (~~IC 35-42-2-1.3~~) involving placing  
 3 a bodily fluid or waste on another person, the court may limit testing  
 4 under this subsection to a test only for human immunodeficiency virus  
 5 (HHV). However, the court may order additional testing for human  
 6 immunodeficiency virus (HHV) as may be medically appropriate. The  
 7 court shall take actions to ensure the confidentiality of evidence  
 8 introduced at the hearing.

9 (d) This subsection applies only to a defendant who has been  
 10 charged with an offense involving the transmission of a bodily fluid. At  
 11 the request of an alleged victim of the offense, the parent, guardian, or  
 12 custodian of an alleged victim who is less than eighteen (18) years of  
 13 age, or the parent, guardian, or custodian of an alleged victim who is  
 14 an endangered adult (as defined in IC 12-10-3-2), the prosecuting  
 15 attorney shall petition a court to order a defendant charged with the  
 16 commission of an offense involving the transmission of a bodily fluid  
 17 to submit to a screening test to determine whether the defendant is  
 18 infected with a serious disease. In the petition, the prosecuting attorney  
 19 must set forth information demonstrating that:

20 (1) the defendant has committed an offense; and

21 (2) a bodily fluid was transmitted from the defendant to the victim  
 22 in connection with the commission of the offense.

23 The court shall set the matter for hearing not later than forty-eight (48)  
 24 hours after the prosecuting attorney files a petition under this  
 25 subsection. The alleged victim of the offense, the parent, guardian, or  
 26 custodian of an alleged victim who is less than eighteen (18) years of  
 27 age, and the parent, guardian, or custodian of an alleged victim who is  
 28 an endangered adult (as defined in IC 12-10-3-2) are entitled to receive  
 29 notice of the hearing and are entitled to attend the hearing. The  
 30 defendant and the defendant's counsel are entitled to receive notice of  
 31 the hearing and are entitled to attend the hearing. If, following the  
 32 hearing, the court finds probable cause to believe that the defendant has  
 33 committed an offense and that a bodily fluid was transmitted from the  
 34 defendant to the alleged victim in connection with the commission of  
 35 the offense, the court may order the defendant to submit to a screening  
 36 test for one (1) or more serious diseases. If the defendant is charged  
 37 with battery (~~IC 35-42-2-1~~) or domestic battery (~~IC 35-42-2-1.3~~)  
 38 involving placing bodily fluid or waste on another person, the court  
 39 may limit testing under this subsection to a test only for human  
 40 immunodeficiency virus (HHV). However, the court may order  
 41 additional testing for human immunodeficiency virus (HHV) as may be  
 42 medically appropriate. The court shall take actions to ensure the



1 confidentiality of evidence introduced at the hearing.

2 (e) The testimonial privileges applying to communication between  
3 a husband and wife and between a health care provider and the health  
4 care provider's patient are not sufficient grounds for not testifying or  
5 providing other information at a hearing conducted in accordance with  
6 this section.

7 (f) A health care provider (as defined in IC 16-18-2-163) who  
8 discloses information that must be disclosed to comply with this  
9 section is immune from civil and criminal liability under Indiana  
10 statutes that protect patient privacy and confidentiality.

11 (g) The results of a screening test conducted under this section shall  
12 be kept confidential if the defendant ordered to submit to the screening  
13 test under this section has not been convicted of the potentially disease  
14 transmitting offense or offense involving the transmission of a bodily  
15 fluid with which the defendant is charged. The results may not be made  
16 available to any person or public or private agency other than the  
17 following:

- 18 (1) The defendant and the defendant's counsel.
- 19 (2) The prosecuting attorney.
- 20 (3) The department of correction or the penal facility, juvenile  
21 detention facility, or secure private facility where the defendant  
22 is housed.
- 23 (4) The alleged victim or the parent, guardian, or custodian of an  
24 alleged victim who is less than eighteen (18) years of age, or the  
25 parent, guardian, or custodian of an alleged victim who is an  
26 endangered adult (as defined in IC 12-10-3-2), and the alleged  
27 victim's counsel.

28 The results of a screening test conducted under this section may not be  
29 admitted against a defendant in a criminal proceeding or against a child  
30 in a juvenile delinquency proceeding.

31 (h) As soon as practicable after a screening test ordered under this  
32 section has been conducted, the alleged victim or the parent, guardian,  
33 or custodian of an alleged victim who is less than eighteen (18) years  
34 of age, or the parent, guardian, or custodian of an alleged victim who  
35 is an endangered adult (as defined in IC 12-10-3-2), and the victim's  
36 counsel shall be notified of the results of the test.

37 (i) An alleged victim may disclose the results of a screening test to  
38 which a defendant is ordered to submit under this section to an  
39 individual or organization to protect the health and safety of or to seek  
40 compensation for:

- 41 (1) the alleged victim;
- 42 (2) the alleged victim's sexual partner; or



1 (3) the alleged victim's family.  
2 (j) The court shall order a petition filed and any order entered under  
3 this section sealed.  
4 (k) A person that knowingly or intentionally:  
5 (1) receives notification or disclosure of the results of a screening  
6 test under this section; and  
7 (2) discloses the results of the screening test in violation of this  
8 section;  
9 commits a Class B misdemeanor.  
10 SECTION 4. IC 16-41-10-2.5, AS AMENDED BY P.L.112-2020,  
11 SECTION 44, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
12 JULY 1, 2021]: Sec. 2.5. (a) A patient (including a patient who is  
13 unable to consent due to physical or mental incapacity) to whose blood  
14 or body fluids an emergency medical services provider, a health care  
15 provider, or a law enforcement officer is exposed as described in  
16 section 2 of this chapter is considered to have consented to:  
17 (1) testing for the presence of a serious communicable disease of  
18 a type that has been epidemiologically demonstrated to be  
19 transmittable by an exposure of the kind experienced by the  
20 emergency medical services provider, health care provider, or law  
21 enforcement officer; and  
22 (2) release of the testing results to a medical director or physician  
23 described in section 3 of this chapter.  
24 The medical director or physician shall notify the emergency medical  
25 services provider, health care provider, or law enforcement officer of  
26 the test results.  
27 (b) If a patient described in subsection (a) refuses to provide a blood  
28 or body fluid specimen for testing for a serious communicable disease,  
29 the exposed emergency medical services provider, health care provider,  
30 or law enforcement officer, the exposed emergency medical services  
31 provider's, health care provider's, or law enforcement officer's  
32 employer, or the state department may petition the circuit or superior  
33 court having jurisdiction in the county:  
34 (1) of the patient's residence; or  
35 (2) where the employer of the exposed emergency medical  
36 services provider, health care provider, or law enforcement officer  
37 has the employer's principal office;  
38 for an order requiring that the patient provide a blood or body fluid  
39 specimen, including an emergency order for a blood or body fluid  
40 specimen under section 2.6 of this chapter.  
41 (c) If a patient described in subsection (a) refuses to provide a blood  
42 or body fluid specimen for testing for a ~~dangerous~~ **serious**



1 communicable disease, and that patient is a witness, bystander, or  
 2 victim of alleged criminal activity (IC 35-31.5-2-73), the exposed  
 3 emergency medical services provider, health care provider, or law  
 4 enforcement officer, the exposed emergency medical services  
 5 provider's, health care provider's, or law enforcement officer's  
 6 employer, or the state department may submit the form described in  
 7 section 2 of this chapter to the medical director or physician of a  
 8 hospital licensed under IC 16-21-2, IC 16-22-2, or IC 16-23-1. The  
 9 medical director or physician described in this section shall notify the  
 10 emergency medical services provider, health care provider, or law  
 11 enforcement officer of the test results not more than forty-eight (48)  
 12 hours after the medical director or physician receives the test results.

13 SECTION 5. IC 20-19-8-3, AS AMENDED BY P.L.92-2020,  
 14 SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 15 JULY 1, 2021]: Sec. 3. (a) The legislative council is urged to assign to  
 16 the study committee during the 2019, 2020, 2021, and 2022 interims  
 17 the study of the following:

18 (1) How to do the following:

19 (A) Eliminate, reduce, or streamline the number of education  
 20 mandates placed on schools.

21 (B) Streamline fiscal and compliance reporting to the general  
 22 assembly on a sustainable and systematic basis.

23 (2) During the 2019 interim, the following:

24 (A) The following provisions:

25 IC 5-2-10.1-11 (school safety specialist).

26 IC 5-11-1-27 (local government internal control standards).

27 IC 20-20-40-13 (restraint and seclusion; notice requirement;  
 28 training; elements of the restraint and seclusion plan).

29 IC 20-26-5-34.2 (bullying prevention; training for  
 30 employees and volunteers).

31 IC 20-26-13 (graduation rate determination).

32 IC 20-26-16-4 (school corporation police officer minimum  
 33 training requirements).

34 IC 20-26-18 (criminal gang measures).

35 IC 20-26-18.2 (school resource officers).

36 IC 20-28-3-4.5 (training on child abuse and neglect).

37 IC 20-28-3-6 (youth suicide awareness and prevention  
 38 training).

39 IC 20-28-3-7 (training on human trafficking).

40 IC 20-34-7 (student athletes: concussions and head injuries).

41 (B) The relation, if applicable, of any requirements under  
 42 provisions listed in clause (A) with the following federal





- 1 provisions, and whether any of the requirements under  
 2 provisions listed in clause (A) or other state law can be  
 3 streamlined with the federal provisions to alleviate  
 4 administrative burdens for schools:  
 5 29 CFR 1910.1030 (bloodborne pathogens).  
 6 29 CFR 1910.147 (lock out/tag out).  
 7 (3) During the 2020 interim, the following:  
 8 (A) The following provisions:  
 9 IC 5-11-1-27 (local government internal control standards).  
 10 IC 5-22-8-2 (purchases below fifty thousand dollars  
 11 (\$50,000)).  
 12 IC 20-19-6.2 (Indiana family friendly school designation  
 13 program).  
 14 IC 20-26-3-5 (constitutional or statutory exercise of powers;  
 15 written policy).  
 16 IC 20-26-5-1 (power and purpose to conduct various  
 17 education programs).  
 18 IC 20-26-5-10 (adoption of criminal history background and  
 19 child protection index check policy; implementation of  
 20 policy).  
 21 IC 20-26-5-34.4 (child suicide awareness and prevention).  
 22 IC 20-33-2-14 (compulsory attendance; school corporation  
 23 policy; exceptions; service as page or honoree of general  
 24 assembly).  
 25 IC 20-33-8-12 (adoption of discipline rules; publicity  
 26 requirement; discipline policy regulations and guidelines;  
 27 delegation of authority; rulemaking powers of governing  
 28 body).  
 29 IC 20-33-8-13.5 (discipline rules prohibiting bullying  
 30 required).  
 31 IC 20-33-8-32 (locker searches).  
 32 IC 20-43-10-3.5 (teacher appreciation grants).  
 33 410 IAC 33-4-3 (vehicles idling).  
 34 410 IAC 33-4-7 (policy for animals in the classroom).  
 35 410 IAC 33-4-8 (policy to minimize student exposure to  
 36 chemicals).  
 37 511 IAC 6-10-4 (postsecondary enrollment program local  
 38 policies).  
 39 511 IAC 6.1-5-9 (required homework policy).  
 40 511 IAC 6.1-5-10 (policy prohibiting retaining students for  
 41 athletic purposes).  
 42 511 IAC 7-36-9 (medication administration).



- 1 511 IAC 7-42-10 (least restrictive environment and delivery  
 2 of special education and related services).
- 3 (B) The relation, if applicable, of any requirements under  
 4 provisions listed in clause (A) with the following federal  
 5 provisions, and whether any of the requirements under  
 6 provisions listed in clause (A) or any other state law can be  
 7 streamlined with the federal provisions to alleviate  
 8 administrative burdens for schools:
- 9 20 U.S.C. 1232h(c) and 34 CFR 98.3 (parental access to  
 10 instructional materials).
- 11 20 U.S.C. 6318(a)(2) (parent and family engagement).
- 12 20 U.S.C. 7961(h)(1) (Gun-Free Schools Act).
- 13 41 U.S.C. 8103 and 34 CFR 84 (drug-free workplace).
- 14 42 U.S.C. 1751 through 42 U.S.C. 1769 (school lunch).
- 15 7 CFR 210.31 (local school wellness policy).
- 16 (4) During the 2021 interim, the following:
- 17 (A) The following provisions:
- 18 IC 5-3-1-3(b) through IC 5-3-1-3(e) and IC 5-3-1-3(g)  
 19 (publication of annual financial report).
- 20 IC 20-18-2-2.7 (definition of "curricular material").
- 21 IC 20-19-2-8 (adoption of administrative rules by the state  
 22 board).
- 23 IC 20-19-2-16 (federal aid concerning children with  
 24 disabilities).
- 25 IC 20-19-3-9.4 (disclosure of student test number  
 26 information).
- 27 IC 20-20-8-8 (school corporation annual performance  
 28 report).
- 29 IC 20-20-33 (alternative education program grants).
- 30 IC 20-26-13 (graduation rate determination).
- 31 IC 20-28-5-1 (department's responsibility for licensing  
 32 teachers).
- 33 IC 20-28-11.5-9 (staff performance evaluation reporting).
- 34 IC 20-30-8 (alternative program for certain students).
- 35 IC 20-33-2-3.2 (definition of "attend").
- 36 IC 20-33-5-7 (public schools; curricular material assistance;  
 37 state reimbursement).
- 38 IC 20-34-6 (student safety reporting).
- 39 IC 20-35-5-2 (formation of special education cooperative).
- 40 IC 20-36 (high ability students).
- 41 IC 20-43-1-3 (definition of "honors designation award").
- 42 IC 20-43-4-2 (determination of ADM).



- 1 IC 20-43-10-3 (determination of annual performance grant).  
 2 IC 21-12-10 (eligibility for Mitch Daniels early graduation  
 3 scholarship).  
 4 511 IAC 6-9.1 (waiver of curriculum and graduation rules  
 5 for high ability students).  
 6 511 IAC 6.2-3.1 (reading plan).  
 7 511 IAC 7-46-4 (child count data collection).  
 8 511 IAC 10-6-4(a)(1) (staff evaluation measures).  
 9 511 IAC 16-2-7 (creditable experience for licensing).  
 10 (B) The relation, if applicable, of any requirements under  
 11 provisions listed in clause (A) with the following federal  
 12 provisions and whether any of the requirements under  
 13 provisions listed in clause (A) or other state law can be  
 14 streamlined with the federal provisions to alleviate  
 15 administrative burdens for schools:  
 16 20 U.S.C. 3413(c)(1) (civil rights data collection).  
 17 Individuals with Disabilities Education Act (IDEA), Section  
 18 618 Part C (child count reporting requirements).  
 19 Elementary and Secondary Education Act of 1965 (ESEA),  
 20 Section 8303, as amended by the Every Student Succeeds  
 21 Act (ESSA) (consolidated reporting).  
 22 34 CFR 300.601 (state performance plans and data  
 23 collection).  
 24 (5) During the 2022 interim, the following provisions:  
 25 IC 20-30-5-5.5 (instruction on bullying prevention).  
 26 IC 20-30-5-5.7 (child abuse and child sexual abuse).  
 27 IC 20-30-5-7 (required curriculum).  
 28 IC 20-30-5-8 (safety instruction).  
 29 IC 20-30-5-9 (hygiene instruction).  
 30 IC 20-30-5-10 (disease instruction).  
 31 IC 20-30-5-11 (drug education).  
 32 IC 20-30-5-12 (~~AIDS education~~) **(Human immunodeficiency**  
 33 **virus (HIV) education)**.  
 34 IC 20-30-5-13 (human sexuality and sexually transmitted  
 35 diseases instructional requirements).  
 36 IC 20-30-5-14 (career awareness and development).  
 37 IC 20-30-5-15 (breast cancer and testicular cancer education).  
 38 IC 20-30-5-16 (human organ and blood donor program  
 39 education).  
 40 IC 20-30-5-17 (access to materials; consent for participation).  
 41 IC 20-30-5-18 (meningitis information).  
 42 IC 20-30-5-19 (personal financial responsibility instruction).



1 IC 20-30-5-20 (instruction in cardiopulmonary resuscitation).

2 IC 20-30-5-23 (computer studies).

3 (b) The study committee shall include in its annual report for each  
4 interim the study committee's recommendations, including any  
5 recommendations to the general assembly as to whether a provision  
6 described in subsection (a)(2)(A), (a)(3)(A), (a)(4)(A), or (a)(5) should  
7 **be** repealed or whether the provision may be improved to lessen the  
8 administrative burden placed on schools.

9 (c) This chapter expires January 1, 2023.

10 SECTION 6. IC 34-30-2-149.5, AS AMENDED BY P.L.86-2018,  
11 SECTION 320, IS AMENDED TO READ AS FOLLOWS  
12 [EFFECTIVE JULY 1, 2021]: Sec. 149.5. (a) IC 35-38-1-10.5  
13 (Concerning a person who makes a report or testifies in court regarding  
14 the results of a test for the **human immunodeficiency virus (HIV)** or  
15 **another dangerous a serious** disease performed on an individual  
16 convicted of certain crimes).

17 (b) IC 35-38-1-28(d) (Concerning a clerk, court, law enforcement  
18 officer, or prosecuting attorney for an error or omission in the  
19 transportation of fingerprints, case history data, or sentencing data).

20 SECTION 7. IC 35-31.5-2-52 IS REPEALED [EFFECTIVE JULY  
21 1, 2021]. Sec. 52: "~~Component~~", for purposes of IC 35-45-21-1, has the  
22 meaning set forth in IC 35-45-21-1(a).

23 SECTION 8. IC 35-31.5-2-83.3 IS REPEALED [EFFECTIVE JULY  
24 1, 2021]. Sec. 83.3: "~~Dangerous sexually transmitted disease~~" means:

- 25 (1) the human immunodeficiency virus (HIV);  
26 (2) herpes;  
27 (3) gonorrhea;  
28 (4) syphilis;  
29 (5) chlamydia; or  
30 (6) hepatitis.

31 SECTION 9. IC 35-31.5-2-292.9 IS ADDED TO THE INDIANA  
32 CODE AS A NEW SECTION TO READ AS FOLLOWS  
33 [EFFECTIVE JULY 1, 2021]: Sec. 292.9. "**Serious sexually**  
34 **transmitted disease**" means:

- 35 (1) the human immunodeficiency virus (HIV);  
36 (2) herpes;  
37 (3) gonorrhea;  
38 (4) syphilis;  
39 (5) chlamydia; or  
40 (6) hepatitis.

41 SECTION 10. IC 35-38-1-9.5, AS AMENDED BY P.L.125-2007,  
42 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE



1 JULY 1, 2021]: Sec. 9.5. A probation officer shall obtain confidential  
 2 information from the state department of health under IC 16-41-8-1 to  
 3 determine whether a convicted person was a **carrier of an individual**  
 4 **with** the human immunodeficiency virus (HIV) when the crime was  
 5 committed if the person is:

6 (1) convicted of an offense relating to a criminal sexual act and  
 7 the offense created an epidemiologically demonstrated risk of  
 8 transmission of the human immunodeficiency virus (HIV); or

9 (2) convicted of an offense relating to controlled substances and  
 10 the offense involved:

11 (A) the delivery by any person to another person; or

12 (B) the use by any person on another person;

13 of a contaminated sharp (as defined in IC 16-41-16-2) or other  
 14 paraphernalia that creates an epidemiologically demonstrated risk  
 15 of transmission of HIV by involving percutaneous contact.

16 SECTION 11. IC 35-38-1-10.5, AS AMENDED BY P.L.86-2018,  
 17 SECTION 333, IS AMENDED TO READ AS FOLLOWS  
 18 [EFFECTIVE JULY 1, 2021]: Sec. 10.5. (a) The court:

19 (1) shall order that a person undergo a screening test for the  
 20 human immunodeficiency virus (HIV) if the person is:

21 (A) convicted of an offense relating to a criminal sexual act  
 22 and the offense created an epidemiologically demonstrated  
 23 risk of transmission of the human immunodeficiency virus  
 24 (HIV); or

25 (B) convicted of an offense relating to controlled substances  
 26 and the offense involved:

27 (i) the delivery by any person to another person; or

28 (ii) the use by any person on another person;

29 of a contaminated sharp (as defined in IC 16-41-16-2) or other  
 30 paraphernalia that creates an epidemiologically demonstrated  
 31 risk of transmission of HIV by involving percutaneous contact;  
 32 and

33 (2) may order that a person undergo a screening test for a  
 34 ~~dangerous~~ **serious** disease (as defined in IC 16-41-8-5) in  
 35 accordance with IC 16-41-8-5.

36 (b) If the screening test required by this section indicates the  
 37 presence of antibodies to HIV, the court shall order the person to  
 38 undergo a confirmatory test.

39 (c) If the confirmatory test confirms the presence of the HIV  
 40 antibodies, the court shall report the results to the state department of  
 41 health and require a probation officer to conduct a presence  
 42 investigation to:



1 (1) obtain the medical record of the convicted person from the  
 2 state department of health under IC 16-41-8-1(b)(3); and  
 3 (2) determine whether the convicted person had received risk  
 4 counseling that included information on the behavior that  
 5 facilitates the transmission of HIV.  
 6 (d) A person who, in good faith:  
 7 (1) makes a report required to be made under this section; or  
 8 (2) testifies in a judicial proceeding on matters arising from the  
 9 report;  
 10 is immune from both civil and criminal liability due to the offering of  
 11 that report or testimony.  
 12 (e) The privileged communication between a husband and wife or  
 13 between a health care provider and the health care provider's patient is  
 14 not a ground for excluding information required under this section.  
 15 (f) A mental health service provider (as defined in IC 34-6-2-80)  
 16 who discloses information that must be disclosed to comply with this  
 17 section is immune from civil and criminal liability under Indiana  
 18 statutes that protect patient privacy and confidentiality.  
 19 SECTION 12. IC 35-42-4-3, AS AMENDED BY P.L.187-2015,  
 20 SECTION 48, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 21 JULY 1, 2021]: Sec. 3. (a) A person who, with a child under fourteen  
 22 (14) years of age, knowingly or intentionally performs or submits to  
 23 sexual intercourse or other sexual conduct (as defined in  
 24 IC 35-31.5-2-221.5) commits child molesting, a Level 3 felony.  
 25 However, the offense is a Level 1 felony if:  
 26 (1) it is committed by a person at least twenty-one (21) years of  
 27 age;  
 28 (2) it is committed by using or threatening the use of deadly force  
 29 or while armed with a deadly weapon;  
 30 (3) it results in serious bodily injury;  
 31 (4) the commission of the offense is facilitated by furnishing the  
 32 victim, without the victim's knowledge, with a drug (as defined in  
 33 IC 16-42-19-2(1)) or a controlled substance (as defined in  
 34 IC 35-48-1-9) or knowing that the victim was furnished with the  
 35 drug or controlled substance without the victim's knowledge; or  
 36 (5) it results in the transmission of a ~~dangerous~~ **serious** sexually  
 37 transmitted disease and the person knew that the person was  
 38 infected with the disease.  
 39 (b) A person who, with a child under fourteen (14) years of age,  
 40 performs or submits to any fondling or touching, of either the child or  
 41 the older person, with intent to arouse or to satisfy the sexual desires of  
 42 either the child or the older person, commits child molesting, a Level



1 4 felony. However, the offense is a Level 2 felony if:  
2 (1) it is committed by using or threatening the use of deadly force;  
3 (2) it is committed while armed with a deadly weapon; or  
4 (3) the commission of the offense is facilitated by furnishing the  
5 victim, without the victim's knowledge, with a drug (as defined in  
6 IC 16-42-19-2(1)) or a controlled substance (as defined in  
7 IC 35-48-1-9) or knowing that the victim was furnished with the  
8 drug or controlled substance without the victim's knowledge.  
9 (c) A person may be convicted of attempted child molesting of an  
10 individual at least fourteen (14) years of age if the person believed the  
11 individual to be a child under fourteen (14) years of age at the time the  
12 person attempted to commit the offense.  
13 (d) It is a defense to a prosecution under this section that the  
14 accused person reasonably believed that the child was sixteen (16)  
15 years of age or older at the time of the conduct, unless:  
16 (1) the offense is committed by using or threatening the use of  
17 deadly force or while armed with a deadly weapon;  
18 (2) the offense results in serious bodily injury; or  
19 (3) the commission of the offense is facilitated by furnishing the  
20 victim, without the victim's knowledge, with a drug (as defined in  
21 IC 16-42-19-2(1)) or a controlled substance (as defined in  
22 IC 35-48-1-9) or knowing that the victim was furnished with the  
23 drug or controlled substance without the victim's knowledge.  
24 SECTION 13. IC 35-45-16-1 IS AMENDED TO READ AS  
25 FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 1. ~~(a)~~ As used in this  
26 chapter, "HIV" refers to the human immunodeficiency virus.  
27 ~~(b) The term includes acquired immune deficiency syndrome~~  
28 ~~(AIDS) and AIDS related complex.~~



COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Health, to which was referred House Bill 1340, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

(Reference is to HB 1340 as introduced.)

BARRETT

Committee Vote: Yeas 11, Nays 0

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COMMITTEE REPORT

Madam President: The Senate Committee on Health and Provider Services, to which was referred House Bill No. 1340, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, delete lines 14 through 17.

Delete page 2.

Page 3, delete lines 1 through 8.

Page 7, delete lines 25 through 42.

Page 8, delete lines 1 through 41.

Page 12, line 35, after "should" insert "**be**".

Page 16, delete lines 17 through 39.

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1340 as printed February 8, 2021.)

CHARBONNEAU, Chairperson

Committee Vote: Yeas 8, Nays 0.

