



January 29, 2021

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## SENATE BILL No. 149

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DIGEST OF SB 149 (Updated January 28, 2021 10:47 am - DI 140)

**Citations Affected:** IC 16-20; IC 16-41; IC 32-31.

**Synopsis:** Health code violations. Requires a local health officer to have information establishing probable cause of a public health law or rule violation at a location before a court may issue certain orders concerning the property. (Current law requires reliable information.) Requires a health officer's order of abatement to include the name of the person making the complaint and requires the health officer to report to the county prosecutor certain information concerning a person who provided false information. Requires a health officer to provide information concerning a person who made a false report concerning a communicable disease to the person against whom a false report was made. States that a dwelling is unfit for human habitation when the dwelling places a person's health or life in danger. (Current law states that the dwelling is unfit if it is dangerous or detrimental to life or health.) Requires a health officer to provide notice concerning an unfit dwelling and provide a reasonable amount of time to comply with the notice, and removes language providing that each day the dwelling remains unfit is a separate offense. Specifies that a landlord is not responsible for a health code violation by a tenant.

**Effective:** July 1, 2021.

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January 4, 2021, read first time and referred to Committee on Rules and Legislative Procedure.

January 28, 2021, amended; reassigned to Committee on Health and Provider Services.

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SB 149—LS 6133/DI 13





January 29, 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.

## SENATE BILL No. 149

A BILL FOR AN ACT to amend the Indiana Code concerning health.

*Be it enacted by the General Assembly of the State of Indiana:*

- 1 SECTION 1. IC 16-20-1-23, AS AMENDED BY P.L.122-2012,  
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2021]: Sec. 23. (a) Upon:  
4 (1) showing official identification; and  
5 (2) except as provided in subsection (b), receiving consent of the  
6 owner or occupant of the premises;  
7 a local health officer or the officer's designee may enter any premises  
8 at any reasonable time and inspect, investigate, evaluate, conduct tests,  
9 or take specimens or samples for testing that may be reasonably  
10 necessary to determine compliance with public health laws and rules  
11 and for the prevention and suppression of disease.  
12 (b) A local health officer or the officer's designee shall obtain the  
13 consent of the owner or the occupant of the premises under subsection  
14 (a), except as provided in any of the following circumstances:  
15 (1) Subject to subsection (c), the local health officer or the  
16 officer's designee obtains an order from a circuit or superior court  
17 in the jurisdiction where the premises is located to authorize the

SB 149—LS 6133/DI 13



- 1 inspection, investigation, evaluation, testing, or taking of  
 2 specimens or samples for testing.
- 3 (2) An emergency condition that poses an imminent and serious  
 4 threat to the health of an individual or the public and the local  
 5 health officer or the officer's designee believes that a delay could  
 6 result in a greater health risk.
- 7 (3) Entry by a local health officer or the officer's designee to a  
 8 public place or an area in plain and open view to determine  
 9 compliance with public health laws and rules.
- 10 (4) Entry under the terms and conditions of a license issued by the  
 11 local health department at any reasonable time if reasonably  
 12 necessary to determine compliance with public health laws and  
 13 rules and the terms and conditions of the license.
- 14 (c) A court described in subsection (b)(1) may issue an order to  
 15 inspect, investigate, evaluate, conduct tests, or take specimens or  
 16 samples for testing if the court finds that the local health officer or the  
 17 officer's designee, by ~~oath or affirmation~~, **affidavit**, has provided  
 18 **reliable** information establishing **the probable cause that there is a**  
 19 violation of a public health law or rule at the premises.
- 20 (d) However, a local health officer, or the officer's designee, shall  
 21 not inspect property in which the local health officer has any interest,  
 22 whether real, equitable, or otherwise. Any such inspection or any  
 23 attempt to make such inspection is grounds for removal as provided for  
 24 in this article.
- 25 (e) This section does not prevent inspection of premises in which a  
 26 local health officer has an interest if the premises cannot otherwise be  
 27 inspected. If the premises cannot otherwise be inspected, the county  
 28 health officer shall inspect the premises personally.
- 29 SECTION 2. IC 16-20-1-25, AS AMENDED BY P.L.292-2013,  
 30 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 31 JULY 1, 2021]: Sec. 25. (a) A person shall not institute, permit, or  
 32 maintain any conditions that may transmit, generate, or promote  
 33 disease.
- 34 (b) A health officer, upon receiving a complaint asserting the  
 35 existence of unlawful conditions described in subsection (a) within the  
 36 officer's jurisdiction, shall document the complaint as provided in  
 37 subsection (d). Upon verifying the information contained in the  
 38 complaint, the health officer shall order the abatement of those  
 39 conditions. The order must:
- 40 (1) be in writing;
- 41 (2) **include the name of the person making the complaint;**
- 42 (2) (3) specify the conditions that may transmit disease; and



- 1           ~~(3)~~ **(4)** name the shortest reasonable time for abatement.
- 2           (c) If a person refuses or neglects to obey an order issued under this
- 3 section, the attorney representing the county of the health jurisdiction
- 4 where the offense occurs shall, upon receiving the information from the
- 5 health officer, institute proceedings in the courts for enforcement. An
- 6 order may be enforced by injunction. If the action concerning public
- 7 health is a criminal offense, a law enforcement authority with
- 8 jurisdiction over the place where the offense occurred shall be notified.
- 9           (d) A complaint made under subsection (b) must include adequate
- 10 details to allow the health officer to verify the existence of the unlawful
- 11 conditions that are the subject of the complaint. A health officer shall
- 12 provide a copy of a complaint upon request to the person who is the
- 13 subject of the complaint.
- 14           (e) A person who provides false information upon which a health
- 15 officer relies in issuing an order under this section commits a Class C
- 16 misdemeanor. **The health officer shall report to the county**
- 17 **prosecutor the name, address, and telephone number, if known, of**
- 18 **the person who provided the false information.**
- 19           SECTION 3. IC 16-41-7-2, AS AMENDED BY P.L.112-2020,
- 20 SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 21 JULY 1, 2021]: Sec. 2. (a) An individual with a communicable disease
- 22 is a "serious and present risk to the health of others" under the
- 23 following conditions:
- 24           (1) The individual with a communicable disease engages
- 25 repeatedly in a behavior that has been demonstrated
- 26 epidemiologically (as defined by rules adopted by the state
- 27 department under IC 4-22-2) to transmit a serious communicable
- 28 disease or that indicates a careless disregard for the transmission
- 29 of the disease to others.
- 30           (2) The individual with a communicable disease's past behavior
- 31 or statements indicate an imminent risk that the individual with a
- 32 communicable disease will engage in behavior that transmits a
- 33 serious communicable disease to others.
- 34           (3) The individual with a communicable disease has failed or
- 35 refused to carry out the individual with a communicable disease's
- 36 duty to inform under section 1 of this chapter.
- 37           (b) A person who has reasonable cause to believe that a person:
- 38           (1) is a serious and present risk to the health of others as
- 39 described in subsection (a);
- 40           (2) has engaged in noncompliant behavior; or
- 41           (3) is suspected of being a person at risk (as described in section
- 42 1 of this chapter);



1 may report that information to a health officer.

2 (c) A person who makes a report under subsection (b) in good faith  
3 is not subject to liability in a civil, an administrative, a disciplinary, or  
4 a criminal action.

5 (d) A person who knowingly or recklessly makes a false report  
6 under subsection (b) is civilly liable for actual damages suffered by a  
7 person reported on and for punitive damages. **The health officer shall**  
8 **report to the person against whom the false report was made the**  
9 **following information, if known, concerning the person who made**  
10 **the false report:**

11 (1) **The name of the person.**

12 (2) **The address of the person.**

13 (3) **The telephone number of the person.**

14 SECTION 4. IC 16-41-20-1 IS AMENDED TO READ AS  
15 FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 1. A dwelling is unfit  
16 for human habitation when the dwelling is ~~dangerous or detrimental to~~  
17 **places a person's life or health in danger** because of any of the  
18 following:

19 (1) Want of repair.

20 (2) Defects in the drainage, plumbing, lighting, ventilation, or  
21 construction.

22 (3) Infection with contagious disease.

23 (4) The existence on the premises of an unsanitary condition that  
24 is likely to cause sickness among occupants of the dwelling.

25 SECTION 5. IC 16-41-20-7, AS AMENDED BY P.L.111-2018,  
26 SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
27 JULY 1, 2021]: Sec. 7. The state department, local board of health, or  
28 county health officer may order purified, cleansed, disinfected,  
29 renewed, altered, repaired, decontaminated, or improved a dwelling,  
30 excavation, building, structure, sewer, plumbing, pipe, passage,  
31 premises, ground, or thing in or about a dwelling that is found to ~~be~~  
32 ~~unfit for human habitation or the dwelling's lot.~~ **place a person's life**  
33 **or health in danger.**

34 SECTION 6. IC 16-41-20-13 IS AMENDED TO READ AS  
35 FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 13. ~~(a)~~ Except as  
36 otherwise provided, ~~a~~ **after a health officer has provided to a person**  
37 **who recklessly violates or fails to comply with this chapter proper**  
38 **notice of a violation and a reasonable amount of time to comply,**  
39 **the person who recklessly violates or fails to comply with this chapter**  
40 **commits a Class B misdemeanor.**

41 ~~(b) Each day a violation continues constitutes a separate offense.~~

42 SECTION 7. IC 32-31-8-5 IS AMENDED TO READ AS



- 1       FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 5. **(a)** A landlord shall  
2 do the following:
- 3           (1) Deliver the rental premises to a tenant in compliance with the  
4 rental agreement, and in a safe, clean, and habitable condition.  
5           (2) Comply with all health and housing codes applicable to the  
6 rental premises.  
7           (3) Make all reasonable efforts to keep common areas of a rental  
8 premises in a clean and proper condition.  
9           (4) Provide and maintain the following items in a rental premises  
10 in good and safe working condition, if provided on the premises  
11 at the time the rental agreement is entered into:
- 12           (A) Electrical systems.  
13           (B) Plumbing systems sufficient to accommodate a reasonable  
14 supply of hot and cold running water at all times.  
15           (C) Sanitary systems.  
16           (D) Heating, ventilating, and air conditioning systems. A  
17 heating system must be sufficient to adequately supply heat at  
18 all times.  
19           (E) Elevators, if provided.  
20           (F) Appliances supplied as an inducement to the rental  
21 agreement.
- 22       **(b) A landlord may not be held responsible for a health code**  
23 **violation committed by a tenant.**



COMMITTEE REPORT

Madam President: The Senate Committee on Rules and Legislative Procedure, to which was referred Senate Bill No. 149, 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:

Delete everything after the enacting clause and insert the following:

(SEE TEXT OF BILL)

and when so amended that said bill be reassigned to the Senate Committee on Health and Provider Services.

(Reference is to SB 149 as introduced.)

BRAY, Chairperson

