

SENATE BILL No. 228

DIGEST OF INTRODUCED BILL

Citations Affected: IC 16-18-2-91; IC 16-19-4-11; IC 16-38; IC 16-41; IC 25-26-13-24.5.

Synopsis: Department of health matters. Allows the state health commissioner to issue standing orders (current law allows for statewide standing orders) and sets forth requirements of a standing order. Removes requirement that the state department of health (state department) adopt rules defining a birth problem. Requires the state department to publish a list annually of birth problems required to be reported and allows for the state department to update the list. Adds considerations by the state department in compiling the birth problem list. Allows the state department to release information in the immunization data registry to the Centers for Disease Control and Prevention. Requires the state department to publish a list of reportable communicable diseases and other diseases and conditions that are a danger to health and to publish the list of control measures for the diseases and conditions on the state department's Internet web site. Sets forth considerations in updating the list of communicable diseases and conditions.

Effective: July 1, 2019.

Charbonneau

January 3, 2019, read first time and referred to Committee on Health and Provider Services.



First Regular Session of the 121st General Assembly (2019)

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 2018 Regular and Special Session of the General Assembly.

SENATE BILL No. 228

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 16-18-2-91 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 91. "Dangerous
3 communicable disease", for purposes of IC 16-41, means a
4 communicable disease that is ~~classified set forth in the list published~~
5 by the state department as ~~dangerous~~ under IC 16-41-2-1.

6 SECTION 2. IC 16-19-4-11, AS ADDED BY P.L.202-2017,
7 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
8 JULY 1, 2019]: Sec. 11. (a) The state health commissioner or the
9 commissioner's designated public health authority who is a licensed
10 prescriber may, as part of the individual's official capacity, issue a
11 ~~statewide~~ standing order, prescription, or protocol that allows a
12 **pharmacist an individual licensed, certified, or registered by a**
13 **board (as defined in IC 25-1-9-1), and if within the individual's**
14 **scope of practice**, to administer or dispense any of the following:

15 (1) An immunization that is recommended by the federal Centers
16 for Disease Control and Prevention Advisory Committee on
17 Immunization Practices for individuals who are not less than



1 eleven (11) years of age.

2 (2) A smoking cessation product. However, the ~~pharmacist~~
3 **individual** must inform the patient that the patient must have a
4 follow-up consultation with the patient's licensed prescriber.

5 **(b) A standing order described in subsection (a) must include**
6 **the following:**

7 **(1) The purpose of the order.**

8 **(2) The eligible recipients.**

9 **(3) The geographic area covered by the standing order.**

10 **(4) The procedure for administering or dispensing the**
11 **immunization or product.**

12 **(5) A timeline for renewing or updating the standing order.**

13 ~~(b)~~ **(c)** The state health commissioner or designated public health
14 authority who issues a ~~statewide~~ standing order, prescription, or
15 protocol under subsection (a) is immune from civil liability related to
16 the issuing of the standing order, prescription, or protocol.

17 SECTION 3. IC 16-38-4-7, AS AMENDED BY P.L.232-2013,
18 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
19 JULY 1, 2019]: Sec. 7. (a) The state department shall adopt rules under
20 IC 4-22-2 to

21 ~~(1)~~ **define a birth problem; and**

22 ~~(2)~~ **establish reporting requirements regarding birth problems for:**

23 ~~(A)~~ **(1) hospitals;**

24 ~~(B)~~ **(2) physicians;**

25 ~~(C)~~ **(3) local health departments;**

26 ~~(D)~~ **(4) home deliveries, as described in section 1(8) of this**
27 **chapter; and**

28 ~~(E)~~ **(5) other health care providers designated by the state**
29 **department.**

30 **(b) The state department:**

31 **(1) shall publish annually the list of birth problems required**
32 **to be reported; and**

33 **(2) may publish an updated list of birth problems required to**
34 **be reported as necessary.**

35 **The state department is not required to include the list of birth**
36 **problems to be reported in the rules required in subsection (a).**

37 ~~(b)~~ **(c)** In adopting rules regarding the reporting of birth problems
38 **determining the list of birth problems to be reported under this**
39 **section, the state department shall give consideration to the following**
40 **factors:**

41 **(1) The extent to which a condition can be measured or identified.**

42 **(2) The extent to which there is a known intervention for a**



1 condition.

2 (3) The significance of the burden imposed on the life of the
3 individual by a condition.

4 **(4) The list of reportable conditions issued by the National
5 Birth Defects Prevention Network.**

6 **(5) Recommendations made by the Indiana Perinatal Quality
7 Improvement Collaborative.**

8 ~~(4)~~ **(6)** Other factors that the state department determines
9 appropriate.

10 SECTION 4. IC 16-38-4-8, AS AMENDED BY P.L.130-2018,
11 SECTION 83, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
12 JULY 1, 2019]: Sec. 8. (a) The state department shall establish a birth
13 problems registry for the purpose of recording all cases of birth
14 problems that occur in Indiana residents and compiling necessary and
15 appropriate information concerning those cases, as determined by the
16 state department, in order to:

17 (1) conduct epidemiologic and environmental studies and to apply
18 appropriate preventive and control measures;

19 (2) except for an autism spectrum disorder, inform the parents of
20 children with birth problems:

21 (A) at the time of discharge from the hospital; or

22 (B) if a birth problem is diagnosed during a physician or
23 hospital visit that occurs before the child is:

24 (i) except as provided in item (ii), three (3) years of age at
25 the time of diagnosis; or

26 (ii) five (5) years of age at the time of diagnosis if the
27 disorder is a fetal alcohol spectrum disorder;

28 about physicians care facilities, and appropriate community
29 resources, including local step ahead agencies and the infants and
30 toddlers with disabilities program (IC 12-12.7-2);

31 (3) except as provided in subsection (d), inform:

32 (A) the individual with problems at any age; or

33 (B) the individual's parent;

34 at the time of diagnosis, if the individual's disorder is an autism
35 spectrum disorder, about physicians and appropriate state and
36 community resources, including local step ahead agencies and the
37 infants and toddlers with disabilities program (IC 12-12.7-2); or

38 (4) inform citizens regarding programs designed to prevent or
39 reduce birth problems.

40 (b) The state department shall record in the birth problems registry:

41 (1) all data concerning birth problems of children that are
42 provided from the certificate of live birth;



1 (2) any additional information that may be provided by an
 2 individual or entity described in section ~~7(a)(2)~~ **7(a)** of this
 3 chapter concerning a birth problem that is:

4 (A) ~~designated published~~ **in a rule adopted list** by the state
 5 department; and

6 (B) recognized:

7 (i) after the child is discharged from the hospital as a
 8 newborn;

9 (ii) before the child is five (5) years of age if the child is
 10 diagnosed with a fetal alcohol spectrum disorder;

11 (iii) before the child is three (3) years of age for any
 12 diagnosis not specified in items (ii) and (iv); and

13 (iv) at any age if the individual is diagnosed with an autism
 14 spectrum disorder; and

15 (3) information reported to the state department by the office of
 16 the secretary under IC 12-12-9-3 concerning a child who is less
 17 than five (5) years of age and diagnosed with a visual impairment
 18 or blindness.

19 (c) The state department shall provide a physician and a local health
 20 department with necessary forms for reporting under this chapter.

21 (d) Concerning an individual who is at least eight (8) years of age
 22 and diagnosed with an autism spectrum disorder, the state department
 23 is not required to do any of the following:

24 (1) Report information to the federal Centers for Disease Control
 25 and Prevention.

26 (2) Confirm the individual's diagnosis.

27 (3) Verbally inform an individual of the information set forth in
 28 subsection (a)(3).

29 SECTION 5. IC 16-38-4-9, AS AMENDED BY P.L.141-2014,
 30 SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 31 JULY 1, 2019]: Sec. 9. (a) Certified nurse midwives, certified direct
 32 entry midwives, and individuals and entities described in section
 33 ~~7(a)(2)~~ **7(a)** of this chapter shall report each confirmed case of a birth
 34 problem that is recognized at the time of birth to the registry not later
 35 than sixty (60) days after the birth. An individual or entity described in
 36 section ~~7(a)(2)~~ **7(a)** of this chapter who recognizes a birth problem in:

37 (1) a child after birth but before the child is five (5) years of age,
 38 if the child is diagnosed with a fetal alcohol spectrum disorder;

39 (2) an individual at any age, if the individual is diagnosed with an
 40 autism spectrum disorder; and

41 (3) a child before the child is three (3) years of age for any birth
 42 problem diagnosis not specified in subdivisions (1) and (2);



1 shall report the birth problem to the registry not later than sixty (60)
 2 days after recognizing the birth problem. Information may be provided
 3 to amend or clarify an earlier reported case.

4 (b) A person required to report information to the registry under this
 5 section may use, when completing reports required by this chapter,
 6 information submitted to any other public or private registry or required
 7 to be filed with federal, state, or local agencies. However, the state
 8 department may require additional, definitive information.

9 (c) Exchange of information between state department registries is
 10 authorized. The state department may use information from another
 11 registry administered by the state department. Information used from
 12 other registries remains subject to the confidentiality restrictions on the
 13 other registries.

14 SECTION 6. IC 16-38-5-3, AS AMENDED BY P.L.96-2017,
 15 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 16 JULY 1, 2019]: Sec. 3. (a) Records maintained as part of the
 17 immunization data registry are confidential.

18 (b) The state department may release information from the
 19 immunization data registry to the individual or to the individual's
 20 parent or guardian if the individual is less than eighteen (18) years of
 21 age.

22 (c) Subject to subsection (d), the state department may release
 23 information in the immunization data registry concerning an individual
 24 to the following persons or entities:

- 25 (1) The immunization data registry of another state.
- 26 (2) A provider or a provider's designee.
- 27 (3) A local health department.
- 28 (4) An elementary or secondary school that is attended by the
 29 individual.
- 30 (5) A child care center that is licensed under IC 12-17.2-4 in
 31 which the individual is enrolled.
- 32 (6) A child care home that is licensed under IC 12-17.2-5 in
 33 which the individual is enrolled.
- 34 (7) A child care ministry that is registered under IC 12-17.2-6 in
 35 which the individual is enrolled.
- 36 (8) The office of Medicaid policy and planning or a contractor of
 37 the office of Medicaid policy and planning.
- 38 (9) A child placing agency licensed under IC 31-27.
- 39 (10) A college or university (as defined in IC 21-7-13-10) that is
 40 attended by the individual.
- 41 (11) An entity, including a private entity, for the purpose of
 42 outreach and education to increase immunization rates, if the



1 following conditions are met:

2 (A) The entity provides the following written information to
3 the state department:

4 (i) Information concerning the proposed outreach and
5 education, including the information the entity needs from
6 the immunization data registry.

7 (ii) How the entity intends to use the information.

8 (iii) The safeguards the entity will take to protect the identity
9 of each individual whose records will be released.

10 (B) The state department determines the proposed safeguards
11 are adequate to protect the identity of each individual whose
12 records will be released.

13 (C) An agreement is executed between the state department
14 and the entity that specifies the entity's permitted use of the
15 records and prohibits the release of names of individuals or
16 any facts that may lead to the identification of an individual.

17 **(12) The United States Centers for Disease Control and
18 Prevention.**

19 (d) Before immunization data may be released to a person or an
20 entity, the person or entity must enter into a data use agreement with
21 the state department that provides that information that identifies a
22 patient will not be released to any other person or entity without the
23 written consent of the patient unless the release is to a person or entity
24 described in subsection (c).

25 (e) The state department may release summary statistics regarding
26 information in the immunization data registry to a person or entity that
27 has entered into a data use agreement with the state department.

28 SECTION 7. IC 16-41-2-1, AS AMENDED BY P.L.8-2008,
29 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
30 JULY 1, 2019]: Sec. 1. **(a)** The state department may adopt rules under
31 IC 4-22-2, including emergency rules under IC 4-22-2-37.1, that do the
32 following:

33 **(1) Define and classify the following:**

34 **(A) Communicable diseases:**

35 **(B) Other diseases that are a danger to health based upon the
36 characteristics of the disease.**

37 **(2) establish reporting, monitoring, and preventive procedures for
38 communicable diseases.**

39 **(b) The state department shall publish a list of:**

40 **(1) reportable communicable diseases;**

41 **(2) other diseases or conditions that are a danger to health
42 based upon the characteristics of the disease or condition; and**



1 **(3) the control measures for the diseases and conditions;**
 2 **on the state department's Internet web site. The state department**
 3 **is not required to adopt rules under subsection (a) for the list**
 4 **described in this subsection.**

5 **(c) In updating the list described in subsection (b), the state**
 6 **department:**

7 **(1) shall consider recommendations from:**

8 **(A) the United States Centers for Disease Control and**
 9 **Prevention; and**

10 **(B) the Council of State and Territorial Epidemiologists;**
 11 **and**

12 **(2) may consult with local health departments.**

13 SECTION 8. IC 16-41-8-1, AS AMENDED BY P.L.65-2016,
 14 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 15 JULY 1, 2019]: Sec. 1. (a) As used in this chapter, "potentially disease
 16 transmitting offense" means any of the following:

17 (1) Battery (IC 35-42-2-1) or domestic battery (IC 35-42-2-1.3)
 18 involving placing a bodily fluid or waste on another person.

19 (2) An offense relating to a criminal sexual act (as defined in
 20 IC 35-31.5-2-216), if sexual intercourse or other sexual conduct
 21 (as defined in IC 35-31.5-2-221.5) occurred.

22 The term includes an attempt to commit an offense, if sexual
 23 intercourse or other sexual conduct (as defined in IC 35-31.5-2-221.5)
 24 occurred, and a delinquent act that would be a crime if committed by
 25 an adult.

26 (b) Except as provided in this chapter, a person may not disclose or
 27 be compelled to disclose medical or epidemiological information
 28 involving a communicable disease or other disease that is a danger to
 29 health (as ~~defined under rules adopted set forth in the list published~~
 30 under IC 16-41-2-1). This information may not be released or made
 31 public upon subpoena or otherwise, except under the following
 32 circumstances:

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

36 (2) Release may be made of medical or epidemiologic information
 37 with the written consent of all individuals identified in the
 38 information released.

39 (3) Release may be made of medical or epidemiologic information
 40 to the extent necessary to enforce public health laws, laws
 41 described in IC 31-37-19-4 through IC 31-37-19-6, IC 31-37-19-9
 42 through IC 31-37-19-10, IC 31-37-19-12 through IC 31-37-19-23,



- 1 IC 35-38-1-7.1, and IC 35-45-21-1 or to protect the health or life
 2 of a named party.
- 3 (4) Release may be made of the medical information of a person
 4 in accordance with this chapter.
- 5 (c) Except as provided in this chapter, a person responsible for
 6 recording, reporting, or maintaining information required to be reported
 7 under IC 16-41-2 who recklessly, knowingly, or intentionally discloses
 8 or fails to protect medical or epidemiologic information classified as
 9 confidential under this section commits a Class A misdemeanor.
- 10 (d) In addition to subsection (c), a public employee who violates this
 11 section is subject to discharge or other disciplinary action under the
 12 personnel rules of the agency that employs the employee.
- 13 (e) Release shall be made of the medical records concerning an
 14 individual to:
- 15 (1) the individual;
 - 16 (2) a person authorized in writing by the individual to receive the
 17 medical records; or
 - 18 (3) a coroner under IC 36-2-14-21.
- 19 (f) An individual may voluntarily disclose information about the
 20 individual's communicable disease.
- 21 (g) The provisions of this section regarding confidentiality apply to
 22 information obtained under IC 16-41-1 through IC 16-41-16.
- 23 SECTION 9. IC 16-41-16-4, AS AMENDED BY P.L.213-2016,
 24 SECTION 24, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 25 JULY 1, 2019]: Sec. 4. (a) Except as provided in subsections (c) and
 26 (d), as used in this chapter, "infectious waste" means waste that
 27 epidemiologic evidence indicates is capable of transmitting a
 28 dangerous communicable disease (as ~~defined by rule adopted set forth~~
 29 **in the list published** under IC 16-41-2-1).
- 30 (b) The term includes the following:
- 31 (1) Pathological wastes.
 - 32 (2) Biological cultures and associated biologicals.
 - 33 (3) Contaminated sharps.
 - 34 (4) Infectious agent stock and associated biologicals.
 - 35 (5) Blood and blood products in liquid or semiliquid form.
 - 36 (6) Laboratory animal carcasses, body parts, and bedding.
 - 37 (7) Wastes (as described under section 8 of this chapter).
- 38 (c) "Infectious waste", as the term applies to a:
- 39 (1) home health agency; or
 - 40 (2) hospice service delivered in the home of a hospice patient;
- 41 includes only contaminated sharps.
- 42 (d) The term does not include an aborted fetus or a miscarried fetus.



1 SECTION 10. IC 25-26-13-24.5, AS ADDED BY P.L.202-2017,
2 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2019]: Sec. 24.5. The board shall post a copy of all ~~statewide~~
4 standing orders, prescriptions, and protocols issued under
5 IC 16-19-4-11 on the board's Internet web site.

