

SENATE BILL No. 487

DIGEST OF INTRODUCED BILL

Citations Affected: IC 16-20-1; IC 16-22-8-21; IC 16-41; IC 32-31; IC 36-1-3-8.

Synopsis: Property matters. Requires a local health officer to have information establishing probable cause of a public health law or rule violation 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 certain information concerning a person who provided false information. Requires the health and hospital corporation of Marion County (corporation) to post notice of an ordinance pending final action on the county's Internet web site. 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 dangerous or detrimental to life or health). Requires a health officer to provide notice concerning a violation of health, sanitation, and safety and provide a reasonable amount of time to comply with the notice. Specifies language to be included in a notice to quit concerning personal property left on the property after eviction and the time frame in which a landlord can consider the personal property to have been abandoned and the former tenant trespassing if the former tenant reenters the premises. Specifies that a landlord is not responsible for a health code violation by a tenant. Reduces the fines for certain ordinance violations from: (1) \$2,500 to \$250; and (2) \$7,500 to \$750.

Effective: July 1, 2019.

Young M

January 14, 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. 487

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

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, 2019]: 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



- 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, **has** provided **reliable**
 18 information establishing **the probable cause that there is a** violation
 19 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, 2019]: 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 16-22-8-21, AS AMENDED BY P.L.88-2006,
- 20 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 21 JULY 1, 2019]: Sec. 21. (a) Not less than seven (7) days before a
- 22 meeting considering the final passage of a proposed ordinance, the
- 23 corporation shall publish a notice that the proposed ordinance is
- 24 pending final action. The notice must be published:
- 25 **(1)** one (1) time in two (2) newspapers with general circulation in
- 26 the county; **and**
- 27 **(2) on the county's Internet web site during the notice period.**
- 28 Notice of an ordinance establishing a budget must be in accordance
- 29 with the general law relating to budgets of first class cities.
- 30 (b) The notice must state the following:
- 31 (1) The general subject matter of the proposed ordinance.
- 32 (2) The time and place of the meeting.
- 33 (3) The proposed ordinance is available from the corporation.
- 34 (c) The corporation may publish in one (1) notice the general
- 35 subject matter of each ordinance pending final action for which notice
- 36 has not been given.
- 37 (d) An ordinance is not invalid because the reference to the subject
- 38 matter of the proposed ordinance was inadequate if the reference is
- 39 sufficient to advise the public of the general subject matter.
- 40 SECTION 4. IC 16-41-7-2 IS AMENDED TO READ AS
- 41 FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 2. (a) A carrier is a
- 42 "serious and present danger to the health of others" under the following



- 1 conditions:
- 2 (1) The carrier engages repeatedly in a behavior that has been
- 3 demonstrated epidemiologically (as defined by rules adopted by
- 4 the state department under IC 4-22-2) to transmit a dangerous
- 5 communicable disease or that indicates a careless disregard for
- 6 the transmission of the disease to others.
- 7 (2) The carrier's past behavior or statements indicate an imminent
- 8 danger that the carrier will engage in behavior that transmits a
- 9 dangerous communicable disease to others.
- 10 (3) The carrier has failed or refused to carry out the carrier's duty
- 11 to warn under section 1 of this chapter.
- 12 (b) A person who has reasonable cause to believe that a person:
- 13 (1) is a serious and present danger to the health of others as
- 14 described in subsection (a);
- 15 (2) has engaged in noncompliant behavior; or
- 16 (3) is suspected of being a person at risk (as described in section
- 17 1 of this chapter);
- 18 may report that information to a health officer.
- 19 (c) A person who makes a report under subsection (b) in good faith
- 20 is not subject to liability in a civil, an administrative, a disciplinary, or
- 21 a criminal action.
- 22 (d) A person who knowingly or recklessly makes a false report
- 23 under subsection (b) is civilly liable for actual damages suffered by a
- 24 person reported on and for punitive damages. **The health officer shall**
- 25 **report to the person against whom the false report was made the**
- 26 **following information, if known, concerning the person who made**
- 27 **the false report:**
- 28 (1) **The name of the person.**
- 29 (2) **The address of the person.**
- 30 (3) **The telephone number of the person.**
- 31 SECTION 5. IC 16-41-20-1 IS AMENDED TO READ AS
- 32 FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 1. A dwelling is unfit
- 33 for human habitation when the dwelling is ~~dangerous or detrimental to~~
- 34 **places a person's life or health in danger** because of any of the
- 35 following:
- 36 (1) Want of repair.
- 37 (2) Defects in the drainage, plumbing, lighting, ventilation, or
- 38 construction.
- 39 (3) Infection with contagious disease.
- 40 (4) The existence on the premises of an unsanitary condition that
- 41 is likely to cause sickness among occupants of the dwelling.
- 42 SECTION 6. IC 16-41-20-7, AS AMENDED BY P.L.111-2018,



1 SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 2 JULY 1, 2019]: Sec. 7. The state department, local board of health, or
 3 county health officer may order purified, cleansed, disinfected,
 4 renewed, altered, repaired, decontaminated, or improved a dwelling,
 5 excavation, building, structure, sewer, plumbing, pipe, passage,
 6 premises, ground, or thing in or about a dwelling that is found to be
 7 ~~unfit for human habitation or the dwelling's lot.~~ **place a person's life**
 8 **or health in danger.**

9 SECTION 7. IC 16-41-20-13 IS AMENDED TO READ AS
 10 FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 13. (a) Except as
 11 otherwise provided, ~~a~~ **after a health officer has provided to a person**
 12 **who recklessly violates or fails to comply with this chapter proper**
 13 **notice of a violation and a reasonable amount of time to comply,**
 14 **the** person who recklessly violates or fails to comply with this chapter
 15 commits a Class B misdemeanor.

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

17 SECTION 8. IC 32-31-1-7 IS AMENDED TO READ AS
 18 FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 7. The following form
 19 of notice may be used when a tenant fails or refuses to pay rent:

(insert date here)

20
 21 To (insert name of tenant here):

22 You are notified to vacate the following property not more than ten
 23 (10) days after you receive this notice unless you pay the rent due on
 24 the property within ten (10) days: (insert description of property here).

25 **YOU MAY SUFFER THE LOSS OF PERSONAL PROPERTY IF**
 26 **THE PERSONAL PROPERTY IS NOT REMOVED FROM THE**
 27 **PROPERTY BEFORE TEN (10) DAYS AFTER THE TENANT'S**
 28 **EVICITION FROM THE PROPERTY.**

(insert name of landlord here)

29
 30 SECTION 9. IC 32-31-4-2, AS AMENDED BY P.L.115-2007,
 31 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 32 JULY 1, 2019]: Sec. 2. (a) A landlord has no liability for loss or
 33 damage to a tenant's personal property if the tenant's personal property
 34 has been abandoned by the tenant.

35 (b) For purposes of this section, a tenant's personal property is
 36 considered abandoned if:

37 (1) a reasonable person would conclude that the tenant has
 38 vacated the premises and has surrendered possession of the
 39 personal property; or

40 (2) **at least ten (10) days have passed from the date the tenant**
 41 **was evicted.**

42 **The landlord may remove and dispose of the abandoned personal**



1 **property after the time frame described in subdivision (2) without**
 2 **any liability to the tenant.**

3 (c) An oral or a written rental agreement may not define
 4 abandonment differently than is provided in subsection (b).

5 (d) If a landlord is awarded possession of a dwelling unit by a court
 6 under IC 32-30-2, the landlord may seek an order from the court
 7 allowing removal of a tenant's personal property.

8 (e) If the tenant fails to remove the tenant's personal property before
 9 the:

10 **(1) time frame set forth in subsection (b)(2); or**

11 **(2) date specified in the court's order issued under subsection (d);**
 12 the landlord may remove the tenant's personal property in accordance
 13 with the order and deliver the personal property to a warehouseman
 14 under section 3 of this chapter or to a storage facility approved by the
 15 court.

16 **(f) If a tenant reenters the property after the ten (10) days from**
 17 **the date of eviction, the tenant shall be considered to have been**
 18 **trespassing upon the property.**

19 SECTION 10. IC 32-31-8-5 IS AMENDED TO READ AS
 20 FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 5. **(a)** A landlord shall
 21 do the following:

22 (1) Deliver the rental premises to a tenant in compliance with the
 23 rental agreement, and in a safe, clean, and habitable condition.

24 (2) Comply with all health and housing codes applicable to the
 25 rental premises.

26 **(3) For a rental premises that contains at least three (3) units,**
 27 make all reasonable efforts to keep common areas of a rental
 28 premises in a clean and proper condition.

29 (4) Provide and maintain the following items in a rental premises
 30 in good and safe working condition, if provided on the premises
 31 at the time the rental agreement is entered into:

32 (A) Electrical systems.

33 (B) Plumbing systems sufficient to accommodate a reasonable
 34 supply of hot and cold running water at all times.

35 (C) Sanitary systems.

36 (D) Heating, ventilating, and air conditioning systems. A
 37 heating system must be sufficient to adequately supply heat at
 38 all times.

39 (E) Elevators, if provided.

40 (F) Appliances supplied as an inducement to the rental
 41 agreement.

42 **(b) A landlord may not be held responsible for a health code**



- 1 **violation committed by the tenant.**
 2 SECTION 11. IC 36-1-3-8, AS AMENDED BY P.L.189-2016,
 3 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 4 JULY 1, 2019]: Sec. 8. (a) Subject to subsection (b), a unit does not
 5 have the following:
- 6 (1) The power to condition or limit its civil liability, except as
 7 expressly granted by statute.
 - 8 (2) The power to prescribe the law governing civil actions
 9 between private persons.
 - 10 (3) The power to impose duties on another political subdivision,
 11 except as expressly granted by statute.
 - 12 (4) The power to impose a tax, except as expressly granted by
 13 statute.
 - 14 (5) The power to impose a license fee greater than that reasonably
 15 related to the administrative cost of exercising a regulatory power.
 - 16 (6) The power to impose a service charge or user fee greater than
 17 that reasonably related to reasonable and just rates and charges
 18 for services.
 - 19 (7) The power to regulate conduct that is regulated by a state
 20 agency, except as expressly granted by statute.
 - 21 (8) The power to prescribe a penalty for conduct constituting a
 22 crime or infraction under statute.
 - 23 (9) The power to prescribe a penalty of imprisonment for an
 24 ordinance violation.
 - 25 (10) The power to prescribe a penalty of a fine as follows:
 26 (A) More than ten thousand dollars (\$10,000) for the violation
 27 of an ordinance or a regulation concerning air emissions
 28 adopted by a county that has received approval to establish an
 29 air permit program under IC 13-17-12-6.
 30 (B) For a violation of any other ordinance:
 31 (i) more than two ~~thousand five~~ hundred **fifty** dollars
 32 ~~(\$2,500)~~ **(\$250)** for a first violation of the ordinance; and
 33 (ii) except as provided in subsection (c), more than seven
 34 ~~thousand five~~ hundred **fifty** dollars ~~(\$7,500)~~ **(\$750)** for a
 35 second or subsequent violation of the ordinance.
 - 36 (11) The power to invest money, except as expressly granted by
 37 statute.
 - 38 (12) The power to order or conduct an election, except as
 39 expressly granted by statute.
 - 40 (13) The power to adopt or enforce an ordinance described in
 41 section 8.5 of this chapter.
 - 42 (14) The power to take any action prohibited by section 8.6 of this



- 1 chapter.
- 2 (15) The power to dissolve a political subdivision, except:
- 3 (A) as expressly granted by statute; or
- 4 (B) if IC 36-1-8-17.7 applies to the political subdivision, in
- 5 accordance with the procedure set forth in IC 36-1-8-17.7.
- 6 (b) A township does not have the following, except as expressly
- 7 granted by statute:
- 8 (1) The power to require a license or impose a license fee.
- 9 (2) The power to impose a service charge or user fee.
- 10 (3) The power to prescribe a penalty.
- 11 (c) Subsection (a)(10)(B)(ii) does not apply to the violation of an
- 12 ordinance that regulates traffic or parking.

