

/* Indiana's statutes deal with prevention and intervention plans, sex offender testing and victim notification; real estate disclosure; premarital testing; and an AIDS advisory council. */

16-1-9.5-2.5. Test for HIV. - (a) Except as provided in subsection (b), a person may not perform a screening or confirmatory test for the antibody or antigen to the human immunodeficiency virus (HIV) without the consent of the individual to be tested or a representative as authorized under IC 16-8-12. A physician ordering the test or the physician's authorized representative shall document whether or not the individual has consented.

(b) The test for the antibody or antigen to HIV may be performed if one (1) of the following conditions exists:

(1) If ordered by a physician who has obtained a health care consent under IC 16-8-12 or an implied consent under emergency circumstances and the test is medically necessary to diagnose or treat the patient's condition.

(2) Under a court order based on clear and convincing evidence of a serious and present health threat to others posed by an individual. Any hearing held under this subsection shall be held in camera at the request of the individual.

(3) If the test is done on blood collected or tested anonymously as part of an epidemiologic survey under IC 16-1-9.5-2(c) or IC 16-8-6-8(a)(5).

(c) A court may order a person to undergo testing for HIV under IC 35-38-1-10.5(a) or IC 35-38-2-2.3(a)(16).

Chapter 9.5

Prevention and control of diseases

16-1-9.5-2. Reporting requirement - Penalty. - (a) Each:

(1) Physician licensed under IC 25-22.5;

(2) Administrator of a hospital licensed under IC 16-10-1, or the administrator's representative; or

(3) Director of a medical laboratory, or the director's representative; shall report to the local or state health officer designated by the state department the information required to be reported by the rules adopted under section 1 [IC 16-1-9.5-1] of this chapter.

(b) Each:

- (1) Physician licensed under IC 25-22.5;
- (2) Hospital licensed under IC 16-10-1; and
- (3) Medical laboratory;

shall report to the state department each case of human immunodeficiency virus (HIV) infection, including each confirmed case of acquired immune deficiency syndrome (AIDS). This report must comply with rules adopted by the state department. The records of the state department must indicate, if known, whether the individual had undergone any blood transfusions before being diagnosed as having AIDS or HIV infection, the place the transfusions took place, the blood center that furnished the blood, and any other known risk factors.

(c) A case report concerning HIV infection that does not involve a confirmed case of AIDS submitted to the state department under subsection (b) that involves:

- (1) An individual enrolled in a formal research project for which a written study protocol has been filed with the state department;
- (2) An individual who is tested anonymously at a designated counseling or testing site; or
- (3) An individual who is tested by a health care provider permitted by rule by the state department to use a number identifier code;

may not include the name or other identifying characteristics of the individual tested. The state department may adopt rules under IC 4-22-2 concerning the compilation for statistical purposes of other information collected under this section.

(d) A person who fails to report information as required by this section commits a Class A infraction.

(e) A person who reports information as required by this section does not satisfy the duties that exist under IC 16-1-10.5-11.5 or

other laws to provide notification to persons identified as being at significant risk of being infected by the individual who is the subject of the report.

(f) A person who makes a report under this section in good faith is not subject to liability in a:

- (1) Civil;
- (2) Administrative;
- (3) Disciplinary; or
- (4) Criminal;

action.

(g) A person who knowingly or recklessly makes a false report under this section is civilly liable for actual or punitive damages suffered by a person who is falsely reported.

(h) A patient's privilege with respect to a physician under IC 34-1-14-5 is waived regarding information reported to a local or state health officer.

16-1-9.5-3. Informed consent. - (a) As used in this section, "informed consent" means authorization for physical examination, made without undue inducement or any form of force, fraud, constraint, deceit, duress, or coercion following:

(1) A fair explanation of the examination, including its purpose, potential uses, limitations, and the fair meaning of the examination results; and

(2) A fair explanation of the procedures to be followed, including:

(A) The voluntary nature of the examination;

(B) The right to withdraw consent to the examination process at any time;

(C) The right to anonymity to the extent provided by law with respect to participation in the examination and disclosure of examination results; and

(D) The right to confidential treatment to the extent provided

by law of information identifying the subject of the examination and the results of the examination.

(b) If the commissioner or local health official has reasonable grounds to believe that an individual may have a communicable disease or other disease that is a danger to health, the commissioner or local health officer may ask the individual for written informed consent to be examined to prevent the transmission of the disease to other individuals.

(c) If the individual, when requested, refuses such an examination, the commissioner or local health officer may compel such examination only upon a court order based on clear and convincing evidence of a serious and present health threat to others posed by that individual. Any hearing held under this section shall be held in camera at the request of the individual.

16-1-9.5-4. Court order for restriction. - If:

(1) An individual is diagnosed as having a communicable disease or other disease that is a danger to health;

(2) After being informed of that diagnosis, the commissioner or the local health officer determines that the individual presents a serious and present danger to health according to rules adopted under this chapter; and

(3) The commissioner or local health officer obtains a court order for restrictions upon the individual, which may include isolation, based upon a showing of clear and convincing evidence of the serious and present health threat to others posed by the individual;

the commissioner or the local health officer shall implement the least restrictive but medically necessary procedures to protect the public's health. Any hearing held under this section shall be held in camera at the request of the individual.

16-1-9.5-6. Restriction on school attendance. - (a) The local health officer may exclude from school a student who has a dangerous communicable disease that:

(1) Is transmissible through normal school contacts; and

(2) Poses a substantial threat to the health and safety of the

school community.

(b) If the local health officer subsequently determines that a student who has been excluded from school under subsection (a) does not have a dangerous communicable disease that:

- (1) Is transmissible through normal school contacts; and
- (2) Poses a substantial threat to the health and safety of the school community;

the local health officer shall issue a certificate of health to admit or readmit the student to school.

(c) A person who objects to the determination made by the local health officer under this section may appeal to the executive board of the state department, which is the ultimate authority. IC 4-21.5 applies to proceedings under this section.

16-1-9.5-7. Confidentiality - Penalty. - (a) Except as provided in subsection (d) and (e), a person may not disclose or be compelled to disclose medical or epidemiological information involving a communicable disease or other disease that is a danger to health as defined under rules adopted under section 1 [IC 16-1-9.5-1] of this chapter. This information may not be released or made public upon subpoena or otherwise, except under the following circumstances:

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

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

(3) Release may be made of medical or epidemiological information to the extent necessary to enforce public health laws, laws described in IC 35-38-1-7.1 and IC 35-42-1-7, or to protect the health or life of a named party.

(b) Except as provided in subsection (a), a person responsible for recording, reporting, or maintaining information required to be reported under this chapter who recklessly, knowingly, or intentionally discloses or fails to protect medical or epidemiological information classified as confidential under

this section commits a Class A misdemeanor.

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

(d) Release shall be made of the medical records concerning an individual to that individual or to a person authorized in writing by that individual to receive the medical records.

(e) An individual may voluntarily disclose information about that individual's communicable disease.

16-1-9.5-9. Notice to observe body fluid precautions. - (a) The attending physician or health care provider (as defined in IC 16-9.5-1-1) shall prepare and attach to the body of a deceased individual a conspicuous notice with the statement: "Observe Body Fluid Precautions" whenever the physician or provider knows that at least one (1) of the following disease processes was present in the deceased at the time of death:

- (1) Hepatitis (Types B, non A, non B).
- (2) Human immunodeficiency virus (HIV) infection (acquired immune deficiency syndrome and AIDS related complex).
- (3) Tuberculosis.
- (4) Herpes.
- (5) Gonorrhea.
- (6) Syphilis (primary and secondary).
- (7) Burkett's lymphoma.
- (8) Kaposi's sarcoma.
- (9) Arthropod-borne viral diseases.
- (10) Babesiosis.
- (11) Creutzfeld-Jakob disease.
- (12) Leptospirosis.

- (13) Malaria.
- (14) Rat-bite fever.
- (15) Relapsing fever.
- (16) Y. Pestis.
- (17) Hemorrhagic fevers.
- (18) Rabies.
- (19) Any other communicable disease as defined in this chapter.

(b) The notice required in this section must accompany the body when it is picked up for disposition.

(c) A person who:

(1) Picks up or transports a body for disposition; and

(2) Has received notice of a communicable disease under this section; shall present the notice to the embalmer, funeral director, or other person taking possession of the body.

(d) The information regarding a deceased individual's communicable disease contained in the notice required by this section shall be kept confidential by the attending physician, health care provider, funeral director, or other person in possession of the body. Such information may be disclosed only if the information is required by state or federal law or under a court order based on circumstances described in section 7 [IC 16-1-9.5-7] of this chapter. An attending physician, health care provider, or other person in possession of the body who discloses information in violation of this section commits a Class A misdemeanor.

(e) A person who knowingly refuses or fails to give notice under subsection (a) to persons disposing of a body that the deceased individual was known to have been diagnosed as having a communicable disease listed in subsection (a) commits a Class C misdemeanor.

(f) The provisions of IC 16-10-7 requiring the use of universal precautions apply to embalmers, funeral directors, and other persons who take possession of or handle a body.

16-1-9.5-10. Investigation of violations - Action for civil penalty -- Action against licensed facility. - (a) The state department may designate an agent who:

(1) If the agent has probable cause to believe that evidence of a health threat exists on private property;

(2) Upon presentation of proper credentials; and

(3) Under emergency circumstances or upon issuance of a warrant; may enter upon private property to inspect or and investigate possible violations of this chapter, IC 16-1-9.7, IC 16-1-10.5, IC 16-8-7.5, or a rule adopted under these chapters. This section does not impair the authority of the state department to enter public or private property as authorized by law.

(b) The state department may commence an action under IC 4-21.5-3-6 or IC 4-21.5-4 for issuance of an order of compliance and a civil penalty not to exceed one thousand dollars (\$1,000) per violation per day against any person who:

(1) Fails to comply with this chapter, IC 16-1-9.7, IC 16-1-10.5, IC 16-8-7.5, or any rule adopted under these chapters; or

(2) Interferes with or obstructs the state department or its designated agent in the performance of its official duties under this chapter, IC 16-1-9.7, IC 16-1-10.5, IC 16-8-7.5, or any rule adopted under these chapters.

(c) The state department may commence an action against a facility licensed by the state department under either subsection (b) or the licensure statute for that facility, but the state department may not bring an action arising out of one (1) incident under both statutes.

CHAPTER 9.6

AIDS INFORMATION

SECTION.

16-1-9.6-1. AIDS literature to stress abstinence.

16-1-9.6-2. Prerequisite for distribution of AIDS literature.

16-1-9.6-1. AIDS literature to stress abstinence. - The state department must provide information stressing the moral aspects of abstinence from sexual activity in any literature that it distributes to schoolchildren and young adults concerning available methods for the prevention of acquired immune deficiency syndrome (AIDS). Such literature must state that the best way to avoid AIDS is for young people to refrain from sexual activity until they are ready as adults to establish, in the context of marriage, a mutually faithful monogamous relationship.

16-1-9.6-2. Prerequisite for distribution of AIDS literature. - The state department may not distribute AIDS literature described in section 1 [IC 16-1-9.6-1] of this chapter to schoolchildren without the consent of the governing body of the school corporation the schoolchildren attend.

CHAPTER 10.5, PREVENTION AND CONTROL OF COMMUNICABLE DISEASES

16-1-10.5-2. "Communicable disease" defined. -- As used in this chapter, "communicable disease" has the meaning prescribed by the state department under IC 16-1-9.5-1.

16-1-10.5-3. "Dangerous communicable disease" defined. - As used in this chapter, "dangerous communicable disease" means a communicable disease that is classified by the state department as dangerous under IC 16-1-9.5-1.

16-1-10.5-8. Tabulation of cases - Annual report - Dissemination of information. - (a) The state department shall tabulate all case reports of tuberculosis and other dangerous communicable diseases reported under IC 16-1-9.5 or under rules adopted under IC 16-1-9.5. The state department shall determine the prevalence and distribution of disease in Indiana and devise methods for restricting and controlling disease.

(b) The state department shall include the information on the prevalence and distribution of tuberculosis and other dangerous communicable diseases in its annual report.

(c) The state department shall disseminate the information prepared under this section.

16-1-10.5-11.5. Notification by physician of patient's duty to warn -- Notification to others of patient's condition - Physician's liability for disclosure of information - Waiver of patient-physician privilege. - (a) A physician (as defined in IC 25-22.5) who diagnoses, treats, or counsels a patient with a dangerous communicable disease shall inform the patient of the patient's duty under section 8.5 of this chapter.

(b) A physician described in subsection (a) may notify:

(1) A health officer if the physician has reasonable cause to believe that a patient:

(A) Is a serious and present danger to the health of others as described in section 9 of this chapter;

(B) Has engaged in noncompliant behavior; or

(C) Is suspected of being a person at risk as described in section 8.5 of this chapter:

(2) A person at risk (as described in section 8.5 of this chapter) or a person legally responsible for the patient, if the physician:

(A) Has medical verification that the patient is a carrier;

(B) Knows the identity of the person at risk;

(C) Has a reasonable belief of a significant risk of harm to the identified person at risk;

(D) Has reason to believe the identified person at risk has not been informed and will not be informed of the risk by the patient or another person; and

(E) Has made reasonable efforts to inform the carrier of the physician's intent to make or cause the state board of health to make a disclosure to the person at risk.

(c) A physician who notifies a person at risk under this section shall:

(1) Identify the dangerous communicable disease; and

(2) Inform the person of available health care measures such as counseling and testing.

(d) A physician who in good faith provides notification under this section is not subject to liability in a civil, administrative, disciplinary, or criminal action.

(e) A patient's privilege with respect to a physician under IC 34-1-14-5 is waived regarding:

(1) Notification under subsection (b); and

(2) Information provided about a patient's noncompliant behavior in an investigation or action under this chapter or IC 16-1-9.5.

(f) A physician's immunity from liability under subsection (d) applies only to the provision of information reasonably calculated to protect an identified person who is at epidemiological risk of infection.

(g) A physician who notifies a person under this section does not satisfy the reporting requirements under IC 16-1-9.5-2.

16-1-10.5-11.6. Investigation of carrier by health officer - Notification of persons at risk - Confidential registry - Adoption of rules. - (a) As used in this section, "person at risk" means an individual who in the best judgment of a physician:

(1) Has engaged in high risk activity (as defined in section 8.5(b) of this chapter); or

(2) Is in imminent danger of engaging in high risk activity (as defined in section 8.5(b) of this chapter).

(b) If a health officer is notified in writing by a physician under section 11.5(b)(1)(A) of this chapter of a patient for whom the physician has medical verification that the patient is a carrier, and who, in the best judgment of the physician, is a serious and present danger to the health of others, the health officer shall make an investigation of the carrier (as authorized in section 10 of this chapter) to determine whether the environmental conditions surrounding the carrier or the conduct of the carrier requires the intervention by the health officer or designated health official to prevent the spread of disease to

others.

(c) If the state department is requested in writing by a physician who has complied with the requirements of section 11.5(b)(2) of this chapter to notify a person at risk, the state department shall notify the person at risk unless, in the opinion of the state department, the person at risk has already been notified, will be notified, or will otherwise be made aware that the person is a person at risk.

(d) The state department shall establish a confidential registry of all persons submitting written requests under subsection (c).

(e) The state department shall adopt rules under IC 4-22-2 to implement this section. Local health officers may submit advisory guidelines to the state department of health to implement this chapter. The state department shall fully consider such advisory guidelines before adopting a rule under IC 4-22-2-29 implementing this chapter.

16-1-10.5-13. Immediate or emergency detention. - (a) If a designated health official determines that a carrier has a dangerous communicable disease and has reasonable grounds to believe that the carrier is mentally ill and either dangerous or gravely disabled, the designated health official may request immediate detention under IC 12-26-4 or emergency detention under IC 12-26-5 for the purpose of having the carrier apprehended, detained, and examined. The designated health official may provide to the superintendent of the psychiatric hospital or center or the attending physician information about the carrier's communicable disease status. Communications under this subsection do not constitute a breach of confidentiality.

(b) If the written report required under IC 12-26-5-5 states there is probable cause to believe the carrier is mentally ill and either dangerous or gravely disabled and requires continuing care and treatment, proceedings may continue under IC 12-26.

(c) If the written report required under IC 12-26-5-5 states there is not probable cause to believe the carrier is mentally ill and either dangerous or gravely disabled and requires continuing care and treatment, the carrier shall be referred to the designated health official who may take action under this chapter or under IC 16-1-9.5.

16-1-10.5-14. Cost of care or treatment. - (a) The court shall determine what part of the cost of care or treatment ordered by the court, if any, the carrier can pay and whether there are other available sources of public or private funding responsible for payment of the carrier's care or treatment. The carrier shall provide the court documents and other information necessary to determine financial ability. If the carrier cannot pay the full cost of care and other sources of public or private funding responsible for payment of the carrier's care or treatment are not available, the county is responsible for the cost. If the carrier provides inaccurate or misleading information, or later becomes able to pay the full cost of care, the carrier becomes liable to the county for costs paid by the county.

(b) Except as provided in subsections (c) and (d), the costs incurred by the county under this chapter are limited to the costs incurred under section 20 [IC 16-1-10.5-20] of this chapter.

(c) However, subsection (b) does not relieve the county of the responsibility for the costs of a carrier who is ordered by the court under this chapter or IC 16-1-9.5 to a county facility.

(d) Costs, other than costs described in subsections (b) and (c) that are incurred by the county for care ordered by the court under this section or IC 16-1-9.5, shall be reimbursed by the state under IC 16-1-8.5 to the extent funds have been appropriated for reimbursement.

16-1-10.5-18. Release of prisoner. - Within thirty (30) days of the proposed release of any prisoner known to have tuberculosis in a communicable stage or other dangerous communicable disease from any state penal institution, the chief administrative officer of the penal institution from which the prisoner will be released shall report to the state department the name, address, age, sex, and date of release of the prisoner. The state department shall provide the information to the health officer having jurisdiction over the prisoner's destination address. Each health officer where the prisoner may be found has jurisdiction over the released prisoner.

16-1-10.5-19. Transfer of nonresident indigent carriers. - The administrator of a hospital or other facility for the treatment of tuberculosis or another dangerous

communicable disease may transfer or authorize the transfer of nonresident indigent carriers to the state or county of their legal residence if they are able to travel. if the carrier is unable to travel, the administrator may have the carrier hospitalized until the carrier is able to travel. Costs for the travel and hospitalization authorized by this section shall be paid by the carrier under section 14 [IC 16-1-10.5-14] of this chapter or by the state department if the carrier cannot pay the full cost.

16-1-10.5-20. Emergency care or treatment. - (a) To protect the health of health care personnel, emergency medical personnel, firefighters, law enforcement officers, correctional officers, or the public health in an emergency, the court may order a health officer or law enforcement officer to take a person into custody and transport the person to an appropriate emergency care or treatment facility for observation, examination, testing, diagnosis, care, treatment, and, if necessary, temporary detention. If the person is already institutionalized, the court may order the institutional facility to hold the person. Orders under this subsection may be issued in an ex parte proceeding upon an affidavit of the designated health official. Upon a determination by the court that probable cause exists to believe that the person presents a serious and present danger to health (as described in section 9 [IC 16-1-10.5-9] of this chapter) and that irreparable harm is likely to result to others if the person is not immediately prevented from engaging in the activities that pose a serious and present danger to health, the court shall issue an order imposing on the person the least restrictive limitations, including detention, that are necessary to eliminate the health threat.

(b) The affidavit must set forth the specific facts upon which the order is sought and must be served on the person immediately upon apprehension or detention. An order under this section may be executed at any time.

(c) A person may not be held under subsection (a) longer than seventy-two (72) hours, exclusive of Saturdays, Sundays, and legal holidays, without a court hearing to determine if the emergency hold should continue.

(d) Notice of the hearing on the continuation of the emergency hold must be served upon the person held under this section at least twenty-four (24) hours before the hearing. The notice must specify:

- (1) The time, date, and place of the hearing;
- (2) The grounds and underlying facts upon which the emergency hold is sought;
- (3) The person's right to appear at the hearing and to cross-examine witnesses; and
- (4) The person's right to court appointed counsel under IC 16-1-9.5-5.

(e) The court may order the emergency or continued holding of the person if it finds, by clear and convincing evidence, that the person would pose an imminent health threat to others if released. However, in no event may the emergency hold continue longer than five (5) days unless a petition to implement medically necessary procedures to protect the public's health and the health of persons described in subsection (a) is filed under IC

16-1-9.5-4. If a petition is filed, the limitations imposed by the court may continue until a hearing on the petition is held under IC 16-1-9.5-4. That hearing must occur within five (5) days of the filing of the petition, excluding Saturdays, Sundays, and legal holidays.

CHAPTER 11

ACQUIRED IMMUNE DEFICIENCY SYNDROME (AIDS) ADVISORY COUNCIL

SECTION.

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| 20-8.1-11-1. | "AIDS" defined. |
| 20-8.1-11-2. | "Council" defined. |
| 20-8.1-11-3. | Establishment of council. |
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20-8.1-11-12. Public meetings.

20-8.1-11-13. Duties.

20-8.1-11-14. Recommendations.

20-8.1-11-1. "AIDS" defined. - As used in this chapter, "AIDS" means the communicable disease known as acquired immune deficiency syndrome.

20-8.1-11-2. "Council" defined. - As used in this chapter, "council" refers to the AIDS advisory council established by this chapter.

20-8.1-11-3. Establishment of council. - (a) The governing body of a school corporation shall establish a council.

(b) Subsection (a) does not apply to a school corporation that has:

(1) Established an advisory committee composed of parents, students, teachers, administrators, and representatives of the state department (2) Met and identified educational materials and resources reflecting of health; and community standards on AIDS before February 15, 1988.

20-8.1-11-4. Appointment of members. - The council consists of thirteen (13) members. The governing body shall appoint all the members of the council.

20-8.1-11-5. Health board representative. - One (1) member of the

council must be:

- (1) A representative of the local board of health or state department of health; and
- (2) Trained in the area of dangerous communicable diseases, including AIDS.

20-8.1-11-6. Qualifications of members. - The remaining members must include the following persons:

- (1) Two (2) students.
- (2) Two (2) teachers.
- (3) Two (2) parents or guardians of children who attend public schools governed by the school corporation.
- (4) Two (2) representatives of school administrators.
- (5) Two (2) representatives of the health care professions, one (1) of whom must be a physician licensed under IC 25-22.5.

(6) Two (2) citizens who reside in the community served by the school corporation.

20-8.1-11-7. Terms of members. - Each council member has a term of two (2) years, beginning upon appointment. If a successor is not appointed at the end of the term, the term continues until a successor is appointed.

20-8.1-11-8. Election of officers. - The council shall, at its first meeting of each year, elect a chairman, vice chairman, and secretary.

20-8.1-11-9. Terms of officers. - The officers elected under section 8 of this chapter have terms that begin upon election and end upon the election of a successor.

20-8.1-11-10. Staff. - The governing body of the school corporation shall furnish the council with the necessary staff to conduct its business.

20-8.1-11-11. Instruction of members. - At the first meeting of the year, a representative of the local board of health or state department of health, or a person approved by the state department of health, shall instruct the members of the council on the source, transmission, and prevention of AIDS.

20-8.1-11-12. Public meetings. - At the second meeting of the year, the council shall hold a public meeting and solicit testimony from members of the community concerning community attitudes and values on matters that affect the instruction on AIDS that is presented within the school corporation.

20-8.1-11-13. Duties. - The council shall do the following:

(1) Identify and study educational materials and resources on AIDS that are available for use in the schools within the school corporation.

(2) Determine which educational materials and resources are based on sound medical principles and reflect the attitude of the community.

(3) Recommend to the school corporation educational materials and resources on AIDS that reflect the standards of the community.

20-8.1-11-14. Recommendations. - The governing body of the school corporation shall consider the recommendations of the advisory council.

CHAPTER 2.1

PSYCHOLOGICALLY AFFECTED PROPERTIES

SECTION.

24-4.6-2.1-1. "Agent" defined.

24-4.6-2.1-2. "Psychologically affected property" defined.

24-4.6-2.1-3. "Transferee" defined.

24-4.6-2.1-4. Disclosure.

24-4.6-2.1-5. Liability for refusal to disclose - Misrepresentation.

24-4.6-2.1-1. "Agent" defined. - As used in this chapter, "agent" means a real estate agent or other person acting on behalf of the owner of real estate or transferee.

24-4.6-2.1-2. "Psychologically affected property" defined. - As

used in this chapter, "psychologically affected property" includes real estate or a dwelling that is for sale, rent, or lease and to which one (1) or more of the following facts or a reasonable suspicion of facts apply:

- (1) That an occupant of the property was afflicted with or die from a disease related to the human immunodeficiency virus (HIV).
- (2) That an individual died on the property.
- (3) That the property was the site of:
 - (A) A felony under IC 35;
 - (B) Criminal gang (as defined in IC 35-45-9-1) activity;
 - (C) The discharge of a firearm involving a law enforcement officer while engaged in the officer's official duties; or
 - (D) The illegal manufacture or distribution of a controlled substance.

24-4.6-2.1-3. "Transferee" defined. - As used in this chapter, "transferee" means a purchaser, tenant, lessee, prospective purchaser, prospective tenant, or prospective lessee of the real estate or dwelling.

24-4.6-2.1-4. Disclosure. - An owner or agent is not required to disclose to a transferee any knowledge of a psychologically affected property in a real estate transaction.

24-4.6-2.1-5. Liability for refusal to disclose - Misrepresentation. - An owner or agent is not liable for the refusal to disclose to a transferee that a dwelling or real estate is a psychologically affected property or details concerning the psychologically affected nature of the dwelling or real estate. However, an owner or agent may not intentionally misrepre

PREVENTION AND CONTROL OF COMMUNICABLE DISEASES

16-1-10.5-1. "Carrier" defined. - As used in this chapter, "carrier" means a person who has tuberculosis in a communicable stage or another dangerous communicable disease.

16-1-10.5-2. "Communicable disease" defined. - As used in this chapter, "communicable disease" has the meaning prescribed by the state department under IC 16-1-9.5-1.

16-1-10.5-3. "Dangerous communicable disease" defined. - As used in this chapter, "dangerous communicable disease" means a communicable disease that is classified by the state department as dangerous under IC 16-1-9.5-1.

16-1-10.54. "Designated health official" defined. - As used in this chapter, "designated health official" means:

- (1) The state health commissioner
- (2) An assistant state health commissioner; or
- (3) A person designated by the state health commissioner or assistant state health commissioner to implement this chapter or IC 16-1-9.5 in a specific situation.

16-1-10.5-5. "Health directive" defined. - As used in this chapter, "health directive" means a written statement, or, in an emergency, an oral statement followed by a written statement within seventy-two 72 hours to a carrier issued by a designated health official under this chapter.

16-1-10.5-6. "Noncompliant behavior" defined. - As used in this chapter, "noncompliant behavior" means behavior of a carrier that is not in compliance with a health directive.

16-1-10.5-7. "Provider" defined. - As used in this chapter,

"provider" has the meaning set forth in IC 16-4-8-1.

16-1-10.5-8. Tabulation of cases - Annual report - Dissemination of information. - (a) The state department shall tabulate all case reports of tuberculosis and other dangerous communicable diseases reported under IC 16-1-9.5 or under rules adopted under IC 16-1-9.5. The state department shall determine the prevalence and distribution of disease in Indiana and devise methods for restricting and controlling disease.

(b) The state department shall include the information on the prevalence and distribution of tuberculosis and other dangerous communicable diseases in its annual report.

(c) The state department shall disseminate the information prepared under this Section.

16-1-10.5-8.5.

communicable diseases. - (a) This section applies to the following dangerous communicable diseases:

- (1) Acquired immune deficiency syndrome (AIDS).
- (2) Human immunodeficiency virus (HIV).
- (3) Hepatitis B.

(b) As used in this section, "high risk activity" means sexual or needle sharing contact that has been demonstrated epidemiologically to transmit a dangerous communicable disease described in subsection (a).

(c) As used in this section, "person at risk" means:

- (1) Past and present sexual or needle sharing partners who may have engaged in high risk activity; or
- (2) Sexual or needle sharing partners prior to engaging in high risk activity;

with the carrier of a dangerous communicable disease described in subsection (a).

(d) Carriers who know of their status as a carrier of a dangerous communicable disease described in subsection (a) have a

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duty to warn, or cause to be warned by a third party, a person at risk of:

- (1) The carrier's disease status; and
- (2) The need to seek health care such as counseling and testing.

16-1-10.5-9. Conditions under which carrier presents serious and present danger. - A carrier is a serious and present danger to the health of others under the following conditions:

(1) The carrier engages repeatedly in a behavior that has been demonstrated epidemiologically (as defined by rules adopted by the state board under IC 4-22-2) to transmit a dangerous communicable disease or that indicates a careless disregard for the transmission of the disease to others.

(2) The carrier's past behavior or statements indicate an imminent danger that the carrier will engage in behavior that transmits a dangerous communicable disease to others.

(3) The carrier has failed or refused to carry out the carrier's duty to warn under section 8.5 of this chapter.

16-1-10.5-10. Investigation of carriers. - The health officer may make an investigation of each carrier to determine whether the environmental conditions surrounding the carrier or the conduct of the carrier requires intervention by the health officer or designated health official to prevent the spread of disease to others.

16-1-10.5-11. Report of information to health officer - Exemption from liability - False report. - (a) A person who has reasonable cause to believe that a person:

(1) Is a serious and present danger to the health of others as described in section 9 of this chapter;

(2) Has engaged in noncompliant behavior; or

(3) Is suspected of being a person at risk (as described in section 8.5 of this chapter);

may report that information to a health officer.

(b) A person who makes a report under this section in good faith is not subject to liability in any civil, administrative, disciplinary, or criminal action.

(c) A person who knowingly or recklessly makes a false report under this section is civilly liable for actual damages suffered by a person reported upon and for punitive damages.

16-1-10.5-11.5. Notification by physician of patient's duty to warn - Notification to others of patient's condition - Physician's liability for disclosure of information - Waiver of patient-physician privilege. - (a) A physician as defined in IC 25-22.5 who diagnoses, treats, or counsels a patient with a dangerous communicable disease shall inform the patient of the patient's duty under section 5 of this chapter.

(b) A physician described in subsection (a) may notify:

(1) A health officer if the physician has reasonable cause to believe that a patient:

(A) Is a serious and present danger to the health of others as described in section 9 of this chapter:

(B) Has engaged in noncompliant behavior; or

(C) Is suspected of being a person at risk as described in section 8.5 of this chapter:

(2) A person at risk (as described in section 8.5 of this chapter) or a person legally responsible for the patient, if the physician:

(A) Has medical verification that the patient is a carrier; (B) Knows the identity of the person at risk; (C) Has a reasonable belief of a significant risk of harm to the identified person at risk;

(D) Has reason to believe the identified person at risk has not been informed and will not be informed of the risk by the patient or another person; and

(E) Has made reasonable efforts to inform the carrier of the physician's intent to make or cause the state board of health to make a disclosure to the person at risk.

(c) A physician who notifies a person at risk under this section shall:

(1) Identify the dangerous communicable disease; and

(2) Inform the person of available health care measures such as counseling and testing.

(d) A physician who in good faith provides notification under this section is not subject to liability in a civil, administrative, disciplinary, or criminal action.

(e) A patient's privilege with respect to a physician under IC 34-1-14-5 is waived regarding:

(1) Notification under subsection (b); and

(2) Information provided about a patient's noncompliant behavior in an investigation or action under this chapter or IC 16-1-9.5.

(f) A physician's immunity from liability under subsection (d) applies only to the provision of information reasonably calculated to protect an identified person who is at epidemiological risk of infection.

(g) A physician who notifies a person under this section does not satisfy the reporting requirements under IC 16-1-9.5-2.

16-1-10.5-11.6. Investigation of carrier by health officer - Notification of persons at risk - Confidential registry - Adoption of rules. - (a) As used in this section, "person at risk" means an individual who in the best judgment of a physician:

(1) Has engaged in high risk activity (as defined in section 8.5(b) of this chapter); or

(2) Is in imminent danger of engaging in high risk activity (as defined in section 8.5(b) of this chapter).

(b) If a health officer is notified in writing by a physician under section 11.5(b) (1) (A) of this chapter of a patient for whom the physician has medical verification that the patient is a carrier, and who, in the best judgment of the physician, is a serious and present danger to the health of others, the health officer shall make an investigation of the carrier (as authorized in section 10 of this chapter) to determine whether the

environmental conditions surrounding the carrier or the conduct of the carrier requires the intervention by the health officer or designated health official to prevent the spread of disease to others.

(c) If the state department is requested in writing by a physician who has complied with the requirements of section 11.5(b)(2) of this chapter to notify a person at risk, the state department shall notify the person at risk unless, in the opinion of the state department, the person at risk has already been notified, will be notified, or will otherwise be made aware that the person is a person at risk.

(d) The state department shall establish a confidential registry of all persons submitting written requests under subsection (c).

(e) The state department shall adopt rules under IC 4-22-2 to implement this section. Local health officers may submit advisory guidelines to the state department of health to implement this chapter. The state department shall fully consider such advisory guidelines before adopting a rule under IC 4-22-2-29 implementing this chapter

16-1-10.5-12. Filing of petition for restriction. - If a designated health official reasonably believes that a carrier presents a serious and present health threat (as described in section 9 of this chapter) by failure or refusal to comply with a health directive, the designated health official may file a petition under IC 16-1-9.5-4.

16-1-10.5-13. Immediate or emergency detention. - (a) If a designated health official determines that a carrier has a dangerous communicable disease and has reasonable grounds to believe that the carrier is mentally ill and either dangerous or gravely disabled, the designated health official may request immediate detention under IC 12-26-4 or emergency detention under IC 12-26-5 for the purpose of having the carrier apprehended, detained, and examined. The designated health official may provide to the superintendent of the psychiatric hospital or center or the attending physician information about the carrier's communicable disease status. Communications under this subsection do not constitute a breach of confidentiality.

(b) If the written report required under IC 12-26-5-5 states

there is probable cause to believe the carrier is mentally ill and either dangerous or gravely disabled and requires continuing care and treatment, proceedings may continue under IC 12-26.

(c) If the written report required under IC 12-26-5-5 states there is not probable cause to believe the carrier is mentally ill and either dangerous or gravely disabled and requires continuing care and treatment, the carrier shall be referred to the designated health official who may take action under this chapter or under IC 16-1-9.5.

16-1-10.5-14. Cost of care or treatment. - (a) The court shall determine what part of the cost of care or treatment ordered by the court, if any, the carrier can pay and whether there are other available sources of public or private funding responsible for payment of the carrier's care or treatment. The carrier shall provide the court documents and other information necessary to determine financial ability. If the carrier cannot pay the full cost of care and other sources of public or private funding responsible for payment of the carrier's care or treatment are not available, the county is responsible for the cost. If the carrier provides inaccurate or misleading information, or later becomes able to pay the full cost of care, the carrier becomes liable to the county for costs paid by the county.

(b) Except as provided in subsections (c) and (d), the costs incurred by the county under this chapter are limited to the costs incurred under section 20 of this chapter.

(c) However, subsection (b) does not relieve the county of the responsibility for the costs of a carrier who is ordered by the court under this chapter or IC 16-1-9.5 to a county facility.

(d) Costs, other than costs described in subsections (b) and (c) that are incurred by the county for care ordered by the court under this section or IC 16-1-9.5, shall be reimbursed by the state under IC 16-1-8.5 to the extent funds have been appropriated for reimbursement.

16-1-10.5-15. Isolation of detained carrier - Observation of rules - Absence without leave. - (a) The chief medical officer of a hospital or other institutional facility may direct that a carrier detained under this chapter or under IC 16-1-9.5-4 be placed apart from the others and restrained from leaving the facility. A carrier detained under this chapter or under IC 16-1-9.5-4 shall observe all the rules of the facility or is subject to further action before the committing court.

(b) A carrier detained under this chapter or under IC 16-1-9.5-4 who leaves a tuberculosis hospital or other institutional facility without being authorized to leave or who fails to return from an authorized leave without having first been formally discharged is considered absent without leave.

(c) The sheriff of the county in which a carrier referred to in subsection (b) is found shall apprehend the carrier, and return the carrier to the facility at which the carrier was being detained upon written request of the superintendent of the facility. Expenses incurred under this section are treated as expenses described in section 14 of this chapter.

16-1-10.5-16. Absence of, voluntarily admitted carrier without authorized leave. - A carrier who poses a serious and present danger to the health of others and has: been voluntarily admitted to a hospital or other facility for the treatment of tuberculosis or another dangerous communicable disease who leaves the facility without authorized leave, or against medical advice, or who fails to return from authorized leave shall be reported to a health officer, by the facility within twenty-four (24) hours of discovery of the carrier's absence. If a health officer fails or refuses to institute or complete necessary legal measures to prevent a health threat (as described in section 9 [of this chapter) by the carrier, the case shall be referred to a designated health official for appropriate action under this chapter or under IC 16-1-9.5.

16-1-10.5-17. Filing of report requesting discharge of carrier. - A designated health official may file a report with the court that states that a carrier who has been detained under this chapter may be discharged without danger to the health or life of others. The court may enter an order of release based on

information presented by the designated health official or other sources.

16-1-10.5-18. Release of prisoner. - Within thirty (30) days of the proposed release of any prisoner known to have tuberculosis in a communicable stage or other dangerous communicable disease from any state penal institution, the chief administrative officer of the penal institution from which the prisoner will be released shall report to the state department the name, address, age, sex, and date of release of the prisoner. The state department shall provide the information to the health officer having jurisdiction over the prisoner's destination address. Each health officer where the prisoner may be found has jurisdiction over the released prisoner.

16-1-10.5-19. Transfer of nonresident indigent carriers. - The administrator of a hospital or other facility for the treatment of tuberculosis or another dangerous communicable disease may transfer or authorize the transfer of nonresident indigent carriers to the state or county of their legal residence if they are able to travel. If the carrier is unable to travel, the administrator may have the carrier hospitalized until the carrier is able to travel. Costs for the travel and hospitalization authorized by this section shall be paid by the carrier under section 14 of this chapter or by the state department if the carrier cannot pay the full cost.

16-1-10.5-20. Emergency care or treatment. - (a) To protect the health of health care personnel, emergency medical personnel, firefighters, law enforcement officers, correctional officers, or the public health in an emergency, the court may order a health officer or law enforcement officer to take a person into custody and transport the person to an appropriate emergency care or treatment facility for observation, examination, testing, diagnosis, care, treatment, and, if necessary, temporary detention. If the person is already institutionalized, the court may order the institutional facility to hold the person. Orders under this subsection may be issued in an ex parte proceeding upon an affidavit of the designated health official. Upon a determination by the court that probable cause exists to believe that the person presents a serious and present danger to health (as described in section 9 of this chapter) and that irreparable

harm is likely to result to others if the person is not immediately prevented from engaging in the activities that pose a serious and present danger to health, the court shall issue an order imposing on the person the least restrictive limitations, including detention, that are necessary to eliminate the health threat.

(b) The affidavit must set forth the specific facts upon which the order is sought and must be served on the person immediately upon apprehension or detention. An order under this section may be executed at any time.

(c) A person may not be held under subsection (a) longer than seventy-two (72) hours, exclusive of Saturdays, Sundays, and legal holidays, without a court hearing to determine if the emergency hold should continue.

(d) Notice of the hearing on the continuation of the emergency hold must be served upon the person held under this section at least twenty-four (24) hours before the hearing. The notice must specify:

(1) The time, date, and place of the hearing;

(2) The grounds and underlying facts upon which the emergency hold is sought;

(3) The person's right to appear at the hearing and to cross-examine witnesses; and

(4) The person's right to court appointed counsel under IC 16-1-9.5-5.

(e) The court may order the emergency or continued holding of the person if it finds, by clear and convincing evidence, that the person would pose an imminent health threat to others if released. However, in no event may the emergency hold continue longer than five (5) days unless a petition to implement medically necessary procedures to protect the public's health and the health of persons described in subsection a) is filed under IC 16-1-9.5-4. If a petition is filed, the limitations imposed by the court may continue until a hearing on the petition is held under IC 16-1-9.5-4. That hearing must occur within five (5) days of the filing of the petition, excluding Saturdays, Sundays, and legal holidays.

16-1-10.5-21. Confidentiality of information. - (a) Identifying information voluntarily given to the health officer or an agent of the health officer through a voluntary contact notification program may not be used as evidence in a court proceeding to determine noncompliant behavior under this chapter or for purposes of IC 16-1-9.5.

(b) The provisions of IC 16-1-9.5-7 regarding confidentiality apply to information obtained under this chapter.

(c) A court may release to an individual, or to a representative designated in writing by that individual, information or records relating to the individual's medical condition if the individual is a party in a pending action involving restriction of the individual's actions under IC 16-1-9.5 of this chapter. A person who obtains information under this subsection is subject to IC 16-1-9.5-7.

16-1-10.5-22. Refusal to admit patient. - The superintendent or the chief executive officer of the facility to which a carrier has been ordered under this chapter or IC 16-1-9.5 may decline to admit a patient if the superintendent or chief executive officer determines that there is not available adequate space, treatment staff, or treatment facilities appropriate to the needs of the patient.

16-1-10.5-23. Right of individual to select mode of treatment. - This chapter is not intended to interfere with the right of an individual to select any mode of treatment, including reliance upon spiritual means through prayer alone for healing. However, all other provisions of this chapter apply.

ACQUIRED IMMUNE DEFICIENCY SYNDROME ADVISORY COUNCIL

20-8.1-11-1. "AIDS" defined. -- As used in this chapter, "AIDS" means the communicable disease known as acquired immune deficiency syndrome.

20-8.1-11-2. "Council" defined. -- As used in this chapter, "council" refers to the AIDS advisory council established by this

chapter.

20-8.1-11-3. Establishment of council. - (a) The governing body of a school corporation shall establish a council.

(b) Subsection (a) does not apply to a school Corporation that has:

(1) Established an advisory committee composed of parents, students, teachers, administrators, and representatives of the state department of health; and

(2) Met and identified educational materials and resources reflecting community standards on AIDS before February 15, 1988.

20-8.1-11-4. Appointment of members. - The council consists of thirteen (13) members. The governing body shall appoint all the members of the council.

20-8.1-11-5. Health board representative. - One (1) member of the council must be:

(1) A representative of the local board of health or state department of health; and

(2) Trained in the area of dangerous communicable diseases, including AIDS.

20-8.1-11-6. Qualifications of members. - The remaining members must include the following persons:

(1) Two (2) students.

(2) Two (2) teachers.

(3) Two (2) parents or guardians of children who attend public schools governed by the school corporation.

(4) Two (2) representatives of school administrators.

(5) Two (2) representatives of the health care professions, one (1) of whom must be a physician licensed under IC 25-22.5.

(6) Two (2) citizens who reside in the community served by the school corporation.

20-8.1-11-7. Terms of members. - Each council member has a term of two (2) years, beginning upon appointment. If a successor is not appointed at the end of the term, the term continues until a successor is appointed.

20-8.1-11-8. Election of officers. - The council shall, at its first meeting of each year, elect a chairman, vice chairman, and secretary.

20-8.1-11-9. Terms of officers. - The officers elected under section 8 of this chapter have terms that begin upon election and end upon the election of a successor.

20-8.1-11-10. Staff. - The governing body of the school corporation shall furnish the council with the necessary staff to conduct its business.

20-8.1-11-11. Instruction of members. - At the first meeting of the year, a representative of the local board of health or state department of health, or a person approved by the state department of health, shall instruct the members of the council on the source, transmission, and prevention of AIDS.

20-8.1-11-12. Public meetings. - At the second meeting of the year, the council shall hold a public meeting and solicit testimony from members of the community concerning community attitudes and values on matters that affect the instruction on AIDS that is presented within the school corporation.

20-8.1-11-13. Duties. - The council shall do the following:

(1) Identify and study educational materials and resources on AIDS that are available for use in the schools within the school corporation.

(2) Determine which educational materials and resources are based on sound medical principles and reflect the attitude of the community.

(3) Recommend to the school corporation educational materials and resources on AIDS that reflect the standards of the community.

20-8.1-11-14. Recommendations. - The governing body of the school corporation shall consider the recommendations of the advisory council.

CHAPTER 2.1

PSYCHOLOGICALLY AFFECTED PROPERTIES

24-4.6-2.1-1. "Agent" defined. - As used in this chapter, "agent" means a real estate agent or other person acting on behalf of the owner of real estate or transferee.

24-4.6-2.1-2. "Psychologically affected property" defined. - As used in this chapter, "psychologically affected property" includes real estate or a dwelling that is for sale, rent, or lease and to which one (1) or more of the following facts or a reasonable suspicion of facts apply:

(1) That an occupant of the property was afflicted with or die from a disease related to the human immunodeficiency virus (HIV).

(2) That an individual died on the property.

(3) That the property was the site of:

(A) A felony under IC 35;

(B) Criminal gang (as defined in IC 35-45-9-1) activity;

(C) The discharge of a firearm involving a law enforcement officer while engaged in the officer's official duties; or

(D) The illegal manufacture or distribution of a controlled substance.

24-4.6-2.1-3. "Transferee" defined. - As used in this chapter, "transferee" means a purchaser, tenant, lessee, prospective purchaser, prospective tenant, or prospective lessee of the real estate or dwelling.

24-4.6-2.1-4. Disclosure. - An owner or agent is not required to disclose to a transferee any knowledge of a psychologically affected property in a real estate transaction.

24-4.6-2.1-5. Liability for refusal to disclose - Misrepresentation. - An owner or agent is not liable for the refusal to disclose to a transferee that a dwelling or real estate is a psychologically affected property or details concerning the psychologically affected nature of the dwelling or real estate. However, an owner or agent may not intentionally misrepresent

31-7-3-3. Application. - (a) An application for a marriage license shall be written and verified. The application shall contain the following information concerning each of the applicants:

(1) Full name.

(2) Birthplace.

(3) Residence.

(4) Age.

(5) Names of dependent children.

(6) Full name (including the maiden name of a mother), last known residence, and, if known, the place of birth of the birth parents (if the applicant is not adopted) or the adoptive parents

(if the applicant is adopted) of the applicant.

(7) A statement of facts necessary to determine whether any legal impediment to the proposed marriage exists.

(8) An acknowledgment that both applicants must sign, affirming that they have received the information described in section 3.5 of this chapter, including a list of test sites for the virus that causes AIDS (acquired immune deficiency syndrome). The acknowledgment required by this subdivision must be in the following form:

ACKNOWLEDGMENT

I acknowledge that I have received information regarding dangerous communicable diseases that are sexually transmitted, and a list of test sites for the virus that causes AIDS (acquired immune deficiency syndrome).

Signature of Applicant

Date

Signature of Applicant

Date

(b) The application shall be recorded by the clerk, together with the license and certificate of marriage, in a book provided for that purpose. This book is a public record.

(c) The state department of health shall develop uniform forms for applications for marriage licenses. The state department of health shall furnish these forms to the circuit court clerks. The state department of health may periodically revise these forms.

(d) Notwithstanding subsection (a), a person who objects on religious grounds is not required to verify the application under subsection (a) by oath or affirmation or sign the acknowledgment described in subsection (a)(8). However, before the clerk of the circuit court may issue a marriage license to a member of the Old Amish Mennonite church, the bishop of that member must sign a statement that the information in the application is true.

(e) If a person objects on religious grounds to verifying the application under subsection (a) by oath or affirmation or to signing the acknowledgment described in subsection (a)(8), the

clerk shall indicate that fact on the application for a marriage license.

31-7-3-3.5. Distribution of AIDS information - Notice of possible testing. - (a) The circuit court clerk shall distribute to marriage license applicants written information or videotaped information approved by the AIDS advisory council of the state department of health concerning dangerous communicable diseases that are sexually transmitted.

(b) The provider of the materials is responsible for all costs involved in the development, preparation, and distribution of the information required under this section. Except for the materials developed by the state, the state and county are not liable for the costs of materials used to implement this section and section 3 of this chapter.

(c) Written information and videotaped information distributed by each circuit court clerk under subsection (a) must provide current information on human immunodeficiency virus (HIV) infection and other dangerous communicable diseases that are sexually transmitted. The information must include an explanation of the following:

(1) The etiology of dangerous communicable diseases that are sexually transmitted.

(2) The behaviors that create a high risk of transmission of such diseases.

(3) Precautionary measures that reduce the risk of contracting such diseases.

(4) The necessity for consulting medical specialists if infection is suspected.

(d) At the time of application for a marriage license, each circuit court clerk shall:

(1) Provide the marriage license applicants with written information furnished under subsection (a) concerning dangerous communicable diseases that are sexually transmitted; or

(2) Show the marriage license applicants videotaped information furnished under subsection (a) concerning dangerous communicable diseases that are sexually transmitted.

(e) In addition to the information provided marriage license applicants under subsection (d), each circuit court clerk shall inform each marriage license applicant that the applicant may be tested on a voluntary basis for human immunodeficiency virus (HIV) infection by the applicant's private physician or at another testing site. The clerk shall provide the marriage applicants with a list of testing sites in the community.

(f) If materials required by this section are not prepared by other sources, the state department of health shall prepare the materials.

(g) An applicant who objects to the written information or videotaped information on religious grounds shall not be required to receive such information.

35-42-1-7. Transferring contaminated body fluids. - (a) As used in this section, "component" means plasma, platelets, or serum of a human being.

(b) A person who recklessly, knowingly, or intentionally donates, sells, or transfers blood, a blood component, or semen for artificial insemination (as defined in IC 16-8-7.5) that contains the human immunodeficiency virus (HIV) commits transferring contaminated body fluids, a Class C felony.

(c) However, the offense is a Class A felony if it results in the transmission of the human immunodeficiency virus (HIV) to any person other than the defendant.

(d) This section does not apply to:

(1) A person who, for reasons of privacy, donates, sells, or transfers blood or a blood component at a blood center (as defined in IC 16-8-7-1) after the person has notified the blood center that the blood or blood component must be disposed of and may not be used for any purpose; or (2) A person who transfers blood, a blood component, semen, or another body fluid that contains the human immunodeficiency virus (HIV) for research purposes.

35-42-1-8. Restrictions on sale or distribution of HIV testing kits for home use - Penalties. (a) The sale or distribution of:

- (1) Diagnostic testing equipment or apparatus; or
- (2) A blood collection kit;

intended for home use to diagnose or confirm human immunodeficiency virus (HIV) infection or disease is prohibited unless the testing equipment, apparatus, or kit has been approved for such use by the federal Food and Drug Administration.

(b) A person who violates this section commits a Class A misdemeanor.

35-38-1-9.5. Determination whether convicted person carried HIV. - A probation officer shall obtain confidential information from the state department of health under IC 16-1-9.5-7 to determine whether a convicted person was a carrier of the human immunodeficiency virus (HIV) when the crime was committed if the person is:

- (1) Convicted of a sex crime listed in section 7(e) of this chapter and the crime created an epidemiologically demonstrated risk of transmission of the human immunodeficiency virus (HIV) as described in section 7.1(b)(8) of this chapter; or
- (2) Convicted of an offense relating to controlled substances listed in section 7.1(f) of this chapter and the offense involved the conditions described in section 7.1(b)(9)(A) of this chapter.

35-38-1-10.5. Screening and confirmatory tests for HIV - Presentence investigation - Waiver of husband-wife privilege - Immunity from liability. - (a) The court shall order that a person undergo a screening test for the human immunodeficiency virus (HIV) if the person is:

- (1) Convicted of a sex crime listed in section 7.1(e) of this chapter and the crime created an epidemiologically demonstrated risk of transmission of the human immunodeficiency virus (HIV) as described in section 7.1(b)(8) of this chapter; or
- (2) Convicted of an offense related to controlled substances listed in section 7.1(f) of this chapter and the offense involved the conditions described in section 7.1(b)(9)(A) of this chapter.

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

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

(1) Obtain the medical record of the convicted person from the state department of health under IC 16-1-9.5-7(a) (3) and

(2) Determine whether the convicted person had received risk counseling that included information on the behavior that facilitates the transmission of HIV.

(d) A person who, in good faith:

(1) Makes a report required to be made under this section; or

(2) Testifies in a judicial proceeding on matters arising from the report;

is immune from both civil and criminal liability due to the offering of that report or testimony.

(e) The privileged communication between a husband and wife or between a health care provider and the health care provider's patient is not a ground for excluding information required under this section.

If) A mental health service provider (as defined in IC 34-4-12.4-1) who discloses information that must be disclosed to comply with this section is immune from civil and criminal liability under Indiana statutes that protect patient privacy and confidentiality.

35-38-1-10.6. Notification to victims that criminal carried HIV.

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(a) The state department of health shall notify victims of the crimes listed in section 7.1(e) and 7.1(f) of this chapter if tests conducted under section 10.5 of this chapter confirm the person who committed the crime had antibodies for the human immunodeficiency virus (HIV).

(b) The state department of health shall provide counseling to

persons notified under this section.

35-38-2-2.3. Conditions of probation - Intermittent term of imprisonment - Court supervision. - (a) As a condition of probation, the court may require a person to do a combination of the following:

(1) Work faithfully at suitable employment or faithfully pursue a course of study or vocational training that will equip the person for suitable employment.

(2) Undergo available medical or psychiatric treatment and remain in a specified institution if required for that purpose.

(3) Attend or reside in a facility established for the instruction, recreation, or residence of persons on probation.

(4) Support the person's dependents and meet other family responsibilities.

(5) Make restitution or reparation to the victim of the crime for damage or injury that was sustained by the victim. When restitution or reparation is a condition of probation, the court shall fix the amount, which may not exceed an amount the person can or will be able to pay, and shall fix the manner of performance.

(6) Execute a repayment agreement with the appropriate governmental entity to repay the full amount of public relief or assistance wrongfully received, and make repayments according to a repayment schedule set out in the agreement.

(7) Pay a fine authorized by IC 35-50.

(8) Refrain from possessing a firearm or other deadly weapon unless granted written permission by the court or the person's probation officer.

(9) Report to a probation officer at reasonable times as directed by the court or the probation officer.

(10) Permit the person's probation officer to visit the person at reasonable times at the person's home or elsewhere.

(11) Remain within the jurisdiction of the court,

unless granted permission to leave by the court or by the person's probation officer.

(12) Answer all reasonable inquiries by the court or the person's probation officer and promptly notify the court or probation officer of any change in address or employment.

(13) Perform uncompensated work that benefits the community.

(14) Satisfy other conditions reasonably related to the person's rehabilitation.

(15) Undergo home detention under IC 35-38-2.5.

(16) Undergo a laboratory test or series of tests approved by the state department of health to detect and confirm the presence of the human immunodeficiency virus (HIV) antigen or antibodies to the human immunodeficiency virus (HIV), if:

(A) The person had been convicted of a sex crime listed in IC 35-38-1-7.1(e) and the crime created an epidemiologically demonstrated risk of transmission of the human immunodeficiency virus (HIV) as described in IC 35-38-1-7.1(b) (8); or

(B) The person had been convicted of an offense related to a controlled substance listed in IC 35-38-1-7.1(f) and the offense involved the conditions described in IC 35-38-1-7.1(b) (9) (A).

(17) Refrain from any direct or indirect contact with an individual.

(18) Execute a repayment agreement with the appropriate governmental entity or with a person for reasonable costs incurred because of the taking, detention, or return of a missing child (as defined in IC 10-1-7-2).

(19) Periodically undergo a laboratory chemical test (as defined in IC 14-1-5-1) or series of chemical tests as specified by the court to detect and confirm the presence of a controlled substance (as defined in IC 35-48-1-9). The person on probation is responsible for any charges resulting from a test and shall have the results of any test under this subdivision reported to the person's probation officer by the laboratory.

(b) When a person is placed on probation, the person shall be given a written statement specifying:

(1) The conditions of probation; and

(2) That if the person violates a condition of probation during the probationary period, a petition to revoke probation may be filed before the earlier of the following:

(A) One (1) year after the termination of probation.

(B) Forty-five (45) days after the state receives notice of the violation.

(c) As a condition of probation, the court may require that the person serve a term of imprisonment in an appropriate facility at the time or intervals (consecutive or intermittent) within the period of probation the court determines.

(d) Intermittent service may be required only for a term of not more than sixty (60) days and must be served in the county or local penal facility. The intermittent term is computed on the basis of the actual days spent in confinement and shall be completed within one (1) year. A person does not earn credit time while serving an intermittent term of imprisonment under this subsection. When the court orders intermittent service, the court shall state:

(1) The term of imprisonment;

(2) The days or parts of days during which a person is to be confined; and

(3) The conditions.

(e) Supervision of a person may be transferred from the court that placed the person on probation to a court of another jurisdiction, with the concurrence of both courts. Retransfers of supervision may occur in the same manner. This subsection does not apply to transfers made under IC 11-13-4 or IC 11-13-5.