

# HOUSE BILL No. 1094

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 16-41; IC 35-31.5-2-152.5; IC 35-42-2-1; IC 35-45; IC 35-52-16-58.

**Synopsis:** Human immunodeficiency virus. Removes certain sentencing enhancements for battery and malicious mischief that relate to human immunodeficiency virus (HIV). Amends the sentencing enhancement for battery against a public safety officer that relates to HIV. Repeals certain offenses concerning the donation, sale, or transfer of blood or semen that contains HIV. Makes conforming changes.

**Effective:** July 1, 2024.

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January 8, 2024, read first time and referred to Committee on Courts and Criminal Code.

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Second Regular Session of the 123rd General Assembly (2024)

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 2023 Regular Session of the General Assembly.

# HOUSE BILL No. 1094



A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

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

1 SECTION 1. IC 16-41-8-1, AS AMENDED BY P.L.130-2021,  
2 SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2024]: Sec. 1. (a) As used in this chapter, "potentially disease  
4 transmitting offense" means any of the following:  
5 (1) Battery (IC 35-42-2-1) or domestic battery (IC 35-42-2-1.3)  
6 involving placing a bodily fluid or waste on another person.  
7 (2) An offense relating to a criminal sexual act (as defined in  
8 IC 35-31.5-2-216), if sexual intercourse or other sexual conduct  
9 (as defined in IC 35-31.5-2-221.5) occurred.  
10 The term includes an attempt to commit an offense, if sexual  
11 intercourse or other sexual conduct (as defined in IC 35-31.5-2-221.5)  
12 occurred, and a delinquent act that would be a crime if committed by  
13 an adult.  
14 (b) Except as provided in this chapter, a person may not disclose or  
15 be compelled to disclose medical or epidemiological information  
16 involving a communicable disease or other serious disease (as set forth  
17 in the list published under IC 16-41-2-1). This information may not be



1 released or made public upon subpoena or otherwise, except under the  
2 following circumstances:

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

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

9 (3) Release may be made of medical or epidemiologic information  
10 to the extent necessary to enforce public health laws, laws  
11 described in IC 31-37-19-4 through IC 31-37-19-6, IC 31-37-19-9  
12 through IC 31-37-19-10, IC 31-37-19-12 through IC 31-37-19-23,  
13 IC 35-38-1-7.1, and IC 35-45-21-1 **(before its repeal)** or to  
14 protect the health or life of a named party.

15 (4) Release may be made of the medical information of a person  
16 in accordance with this chapter.

17 (5) Release may be made of the medical information or  
18 epidemiologic information of a person to an Indiana nonprofit  
19 entity that performs health data services for health care providers  
20 if the state department:

21 (A) determines that the release is necessary as part of a  
22 response to a public health event, including an outbreak,  
23 epidemic, or pandemic; and

24 (B) executes a data use agreement with the entity that specifies  
25 the permitted use and disclosure of any released information.

26 (c) Except as provided in this chapter, a person responsible for  
27 recording, reporting, or maintaining information required to be reported  
28 under IC 16-41-2 who recklessly, knowingly, or intentionally discloses  
29 or fails to protect medical or epidemiologic information classified as  
30 confidential under this section commits a Class A misdemeanor.

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

34 (e) Release shall be made of the medical records concerning an  
35 individual to:

36 (1) the individual;

37 (2) a person authorized in writing by the individual to receive the  
38 medical records; or

39 (3) a coroner under IC 36-2-14-21.

40 (f) An individual may voluntarily disclose information about the  
41 individual's communicable disease.

42 (g) The provisions of this section regarding confidentiality apply to



1 information obtained under IC 16-41-1 through IC 16-41-16.

2 SECTION 2. IC 16-41-12-15, AS AMENDED BY P.L.56-2023,  
3 SECTION 159, IS AMENDED TO READ AS FOLLOWS  
4 [EFFECTIVE JULY 1, 2024]: Sec. 15. (a) A blood center shall require  
5 a blood donor to provide to the blood center the following information:

6 (1) Name.

7 (2) Address.

8 (3) Date of birth.

9 (4) The blood donor's Social Security number, if the blood donor  
10 is receiving monetary compensation for the donation.

11 (b) A blood center shall report the name and address of a blood  
12 donor to the state department when a confirmatory test of the blood  
13 donor's blood confirms the presence of antibodies to the human  
14 immunodeficiency virus (HIV).

15 (c) A blood center shall provide to a blood donor information to  
16 enable the blood donor to give informed consent to the procedures  
17 required by this chapter or IC 16-36. The information required by this  
18 subsection must be in the following form:

19 NOTICE

20 (1) This blood center performs a screening test for the human  
21 immunodeficiency virus (HIV) on every donor's blood.

22 (2) This blood center reports to the Indiana Department of Health  
23 the name and address of a blood donor when a confirmatory test  
24 of the blood donor's blood confirms the presence of antibodies to  
25 the human immunodeficiency virus (HIV).

26 ~~(3) A person who recklessly, knowingly, or intentionally donates~~  
27 ~~(excluding self-donations for stem cell transplantation, other~~  
28 ~~autologous donations, or donations not intended by the blood~~  
29 ~~center for distribution or use); sells, or transfers blood that~~  
30 ~~contains antibodies for the human immunodeficiency virus (HIV)~~  
31 ~~commits a criminal offense as described in IC 35-45-21-1.~~

32 SECTION 3. IC 16-41-14-13, AS AMENDED BY P.L.56-2023,  
33 SECTION 160, IS AMENDED TO READ AS FOLLOWS  
34 [EFFECTIVE JULY 1, 2024]: Sec. 13. A practitioner shall provide  
35 information to a semen donor to enable the semen donor to give  
36 informed consent to the procedures required by this chapter. The  
37 information required by this section must be in the following form:

38 NOTICE

39 (1) This facility performs a screening test for the human  
40 immunodeficiency virus (HIV) on every donor's blood.

41 (2) This facility reports to the Indiana Department of Health the  
42 name and address of a semen donor or recipient when a



1 confirmatory test of the semen donor's blood or the recipient's  
 2 blood confirms the presence of antibodies to the human  
 3 immunodeficiency virus (HIV).

4 ~~(3) A person who, for the purpose of artificial insemination;~~  
 5 ~~recklessly, knowingly, or intentionally donates, sells, or transfers~~  
 6 ~~semen that contains antibodies for the human immunodeficiency~~  
 7 ~~virus (HIV) commits a criminal offense as described in~~  
 8 ~~IC 35-45-21-1.~~

9 SECTION 4. IC 16-41-14-17 IS REPEALED [EFFECTIVE JULY  
 10 1, 2024]. Sec. 17. (a) This section does not apply to a person who  
 11 transfers for research purposes semen that contains antibodies for the  
 12 human immunodeficiency virus (HIV):

13 (b) ~~A person who, for the purpose of artificial insemination;~~  
 14 ~~recklessly, knowingly, or intentionally donates, sells, or transfers semen~~  
 15 ~~that contains antibodies for the human immunodeficiency virus (HIV)~~  
 16 ~~commits transferring contaminated semen, a Level 5 felony. The~~  
 17 ~~offense is a Level 4 felony if the offense results in the transmission of~~  
 18 ~~the virus to another person.~~

19 SECTION 5. IC 35-31.5-2-152.5 IS REPEALED [EFFECTIVE  
 20 JULY 1, 2024]. Sec. 152.5. "HIV", for purposes of IC 35-45-16, has the  
 21 meaning set forth in IC 35-45-16-1.

22 SECTION 6. IC 35-42-2-1, AS AMENDED BY P.L.209-2023,  
 23 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 24 JULY 1, 2024]: Sec. 1. (a) As used in this section, "public safety  
 25 official" means:

- 26 (1) a law enforcement officer, including an alcoholic beverage
- 27 enforcement officer;
- 28 (2) an employee of a penal facility or a juvenile detention facility
- 29 (as defined in IC 31-9-2-71);
- 30 (3) an employee of the department of correction;
- 31 (4) a probation officer;
- 32 (5) a parole officer;
- 33 (6) a community corrections worker;
- 34 (7) a home detention officer;
- 35 (8) a department of child services employee;
- 36 (9) a firefighter;
- 37 (10) an emergency medical services provider;
- 38 (11) a judicial officer;
- 39 (12) a bailiff of any court; or
- 40 (13) a special deputy (as described in IC 36-8-10-10.6).

41 (b) As used in this section, "relative" means an individual related by  
 42 blood, half-blood, adoption, marriage, or remarriage, including:



- 1 (1) a spouse;  
 2 (2) a parent or stepparent;  
 3 (3) a child or stepchild;  
 4 (4) a grandchild or stepgrandchild;  
 5 (5) a grandparent or stepgrandparent;  
 6 (6) a brother, sister, stepbrother, or stepsister;  
 7 (7) a niece or nephew;  
 8 (8) an aunt or uncle;  
 9 (9) a daughter-in-law or son-in-law;  
 10 (10) a mother-in-law or father-in-law; or  
 11 (11) a first cousin.
- 12 (c) Except as provided in subsections (d) through (k), a person who  
 13 knowingly or intentionally:  
 14 (1) touches another person in a rude, insolent, or angry manner;  
 15 or  
 16 (2) in a rude, insolent, or angry manner places any bodily fluid or  
 17 waste on another person;  
 18 commits battery, a Class B misdemeanor.
- 19 (d) The offense described in subsection (c)(1) or (c)(2) is a Class A  
 20 misdemeanor if it:  
 21 (1) results in bodily injury to any other person; or  
 22 (2) is committed against a member of a foster family home (as  
 23 defined in IC 35-31.5-2-139.3) by a person who is not a resident  
 24 of the foster family home if the person who committed the offense  
 25 is a relative of a person who lived in the foster family home at the  
 26 time of the offense.
- 27 (e) The offense described in subsection (c)(1) or (c)(2) is a Level 6  
 28 felony if one (1) or more of the following apply:  
 29 (1) The offense results in moderate bodily injury to any other  
 30 person.  
 31 (2) The offense is committed against a public safety official while  
 32 the official is engaged in the official's official duty, unless the  
 33 offense is committed by a person detained or committed under  
 34 IC 12-26.  
 35 (3) The offense is committed against a person less than fourteen  
 36 (14) years of age and is committed by a person at least eighteen  
 37 (18) years of age.  
 38 (4) The offense is committed against a person of any age who has  
 39 a mental or physical disability and is committed by a person  
 40 having the care of the person with the mental or physical  
 41 disability, whether the care is assumed voluntarily or because of  
 42 a legal obligation.



- 1 (5) The offense is committed against an endangered adult (as  
2 defined in IC 12-10-3-2).  
3 (6) The offense:  
4 (A) is committed against a member of a foster family home (as  
5 defined in IC 35-31.5-2-139.3) by a person who is not a  
6 resident of the foster family home if the person who committed  
7 the offense is a relative of a person who lived in the foster  
8 family home at the time of the offense; and  
9 (B) results in bodily injury to the member of the foster family.  
10 (f) The offense described in subsection (c)(2) is a Level 6 felony if  
11 the person knew or recklessly failed to know that the bodily fluid or  
12 waste placed on another person was infected with hepatitis **or**  
13 tuberculosis. ~~or human immunodeficiency virus.~~  
14 (g) The offense described in subsection (c)(1) or (c)(2) is a Level 5  
15 felony if one (1) or more of the following apply:  
16 (1) The offense results in serious bodily injury to another person.  
17 (2) The offense is committed with a deadly weapon.  
18 (3) The offense results in bodily injury to a pregnant woman if the  
19 person knew of the pregnancy.  
20 (4) The person has a previous conviction for a battery offense  
21 included in this chapter against the same victim.  
22 (5) The offense results in bodily injury to one (1) or more of the  
23 following:  
24 (A) A public safety official while the official is engaged in the  
25 official's official duties, unless the offense is committed by a  
26 person detained or committed under IC 12-26.  
27 (B) A person less than fourteen (14) years of age if the offense  
28 is committed by a person at least eighteen (18) years of age.  
29 (C) A person who has a mental or physical disability if the  
30 offense is committed by an individual having care of the  
31 person with the disability, regardless of whether the care is  
32 assumed voluntarily or because of a legal obligation.  
33 (D) An endangered adult (as defined in IC 12-10-3-2).  
34 (h) The offense described in subsection (c)(2) is a Level 5 felony if:  
35 (1) the person:  
36 (A) knew or recklessly failed to know that the bodily fluid or  
37 waste placed on another person was infected with hepatitis **or**  
38 tuberculosis; ~~or human immunodeficiency virus; and~~  
39 **(B) knew that the body fluid (as defined in**  
40 **IC 35-45-16-2(a)(1)) placed on another person was infected**  
41 **with the human immunodeficiency virus and, based on**  
42 **expert medical testimony, the manner in which the body**



- 1                   **fluid was placed on the person created a substantial risk of**  
 2                   **transmission; and**  
 3                   (2) the person placed the bodily fluid or waste on a public safety  
 4                   official, unless the offense is committed by a person detained or  
 5                   committed under IC 12-26.  
 6                   (i) The offense described in subsection (c)(1) or (c)(2) is a Level 4  
 7                   felony if it results in serious bodily injury to an endangered adult (as  
 8                   defined in IC 12-10-3-2).  
 9                   (j) The offense described in subsection (c)(1) or (c)(2) is a Level 3  
 10                  felony if it results in serious bodily injury to a person less than fourteen  
 11                  (14) years of age if the offense is committed by a person at least  
 12                  eighteen (18) years of age.  
 13                  (k) The offense described in subsection (c)(1) or (c)(2) is a Level 2  
 14                  felony if it results in the death of one (1) or more of the following:  
 15                    (1) A person less than fourteen (14) years of age if the offense is  
 16                    committed by a person at least eighteen (18) years of age.  
 17                    (2) An endangered adult (as defined in IC 12-10-3-2).  
 18                  SECTION 7. IC 35-45-16-1 IS REPEALED [EFFECTIVE JULY 1,  
 19                  2024]. ~~Sec. 7. As used in this chapter, "HIV" refers to the human~~  
 20                  ~~immunodeficiency virus.~~  
 21                  SECTION 8. IC 35-45-16-2, AS AMENDED BY P.L.158-2013,  
 22                  SECTION 545, IS AMENDED TO READ AS FOLLOWS  
 23                  [EFFECTIVE JULY 1, 2024]: Sec. 2. (a) As used in this section, "body  
 24                  fluid" means:  
 25                    (1) blood;  
 26                    (2) saliva;  
 27                    (3) sputum;  
 28                    (4) semen;  
 29                    (5) vaginal secretions;  
 30                    (6) human milk;  
 31                    (7) urine;  
 32                    (8) sweat;  
 33                    (9) tears;  
 34                    (10) any other liquid produced by the body; or  
 35                    (11) any aerosol generated form of liquids listed in this  
 36                    subsection.  
 37                  (b) As used in this section, "infectious hepatitis" means:  
 38                    (1) hepatitis A;  
 39                    (2) hepatitis B;  
 40                    (3) hepatitis C;  
 41                    (4) hepatitis D;  
 42                    (5) hepatitis E; or





- 1           (6) hepatitis G.
- 2           (c) A person who recklessly, knowingly, or intentionally places
- 3 human:
- 4           (1) body fluid; or
- 5           (2) fecal waste;
- 6 in a location with the intent that another person will involuntarily touch
- 7 the body fluid or fecal waste commits malicious mischief, a Class B
- 8 misdemeanor.
- 9           (d) An offense described in subsection (c) is a:
- 10           (1) Level 6 felony if the person knew or recklessly failed to know
- 11 that the body fluid or fecal waste was infected with:
- 12           (A) infectious hepatitis; **or**
- 13           ~~(B) HIV; or~~
- 14           ~~(C) (B) tuberculosis; and~~
- 15           (2) Level 5 felony if:
- 16           (A) the person knew or recklessly failed to know that the body
- 17 fluid or fecal waste was infected with infectious hepatitis and
- 18 the offense results in the transmission of infectious hepatitis to
- 19 the other person; or
- 20           (B) the person knew or recklessly failed to know that the body
- 21 fluid or fecal waste was infected with tuberculosis and the
- 22 offense results in the transmission of tuberculosis to the other
- 23 person. ~~and~~
- 24           ~~(3) Level 4 felony if:~~
- 25           ~~(A) the person knew or recklessly failed to know that the body~~
- 26           ~~fluid or fecal waste was infected with HIV; and~~
- 27           ~~(B) the offense results in the transmission of HIV to the other~~
- 28           ~~person.~~
- 29           (e) A person who recklessly, knowingly, or intentionally places
- 30 human:
- 31           (1) body fluid; or
- 32           (2) fecal waste;
- 33 in a location with the intent that another person will ingest the body
- 34 fluid or fecal waste commits malicious mischief with food, a Class A
- 35 misdemeanor.
- 36           (f) An offense described in subsection (e) is:
- 37           (1) a Level 6 felony if the person knew or recklessly failed to
- 38 know that the body fluid or fecal waste was infected with:
- 39           (A) infectious hepatitis; **or**
- 40           ~~(B) HIV; or~~
- 41           ~~(C) (B) tuberculosis; and~~
- 42           (2) a Level 5 felony if:



1 (A) the person knew or recklessly failed to know that the body  
 2 fluid or fecal waste was infected with infectious hepatitis and  
 3 the offense results in the transmission of infectious hepatitis to  
 4 the other person; or  
 5 (B) the person knew or recklessly failed to know that the body  
 6 fluid or fecal waste was infected with tuberculosis and the  
 7 offense results in the transmission of tuberculosis to the other  
 8 person. and

9 (3) a Level 4 felony if:  
 10 (A) the person knew or recklessly failed to know that the body  
 11 fluid or fecal waste was infected with HIV; and  
 12 (B) the offense results in the transmission of HIV to the other  
 13 person.

14 SECTION 9. IC 35-45-21-1 IS REPEALED [EFFECTIVE JULY 1,  
 15 2024]. Sec. 1. (a) As used in this section, "blood" has the meaning set  
 16 forth in IC 16-41-12-2.5:

17 (b) A person who recklessly, knowingly, or intentionally donates,  
 18 sells, or transfers blood or semen for artificial insemination (as defined  
 19 in IC 16-41-14-2) that contains the human immunodeficiency virus  
 20 (HIV) commits transferring contaminated body fluids, a Level 5 felony.

21 (c) However, the offense under subsection (b) is a Level 3 felony if  
 22 it results in the transmission of the human immunodeficiency virus  
 23 (HIV) to any person other than the defendant.

24 (d) This section does not apply to:  
 25 (1) a person who, for reasons of privacy, donates, sells, or  
 26 transfers blood at a blood center (as defined in IC 16-41-12-3)  
 27 after the person has notified the blood center that the blood must  
 28 be disposed of and may not be used for any purpose;  
 29 (2) a person who transfers blood semen, or another body fluid that  
 30 contains the human immunodeficiency virus (HIV) for research  
 31 purposes; or  
 32 (3) a person who is an autologous blood donor for stem cell  
 33 transplantation.

34 SECTION 10. IC 35-52-16-58 IS REPEALED [EFFECTIVE JULY  
 35 1, 2024]. Sec. 58. IC 16-41-14-17 defines a crime concerning  
 36 communicable diseases.

