



Reprinted
February 10, 2021

SENATE BILL No. 10

DIGEST OF SB 10 (Updated February 9, 2021 2:43 pm - DI 104)

Citations Affected: IC 16-39; IC 16-50.

Synopsis: Statewide maternal mortality review committee. Includes reporting to the statewide maternal mortality review committee (committee) for the release of mental health records without the consent of the patient. Specifies that a health care provider includes a mental health professional for purposes of the review of records by the committee. Requires the committee to: (1) determine whether an abortion was performed on the individual and whether the abortion contributed to the maternal mortality; and (2) include the findings in the committee's annual report.

Effective: July 1, 2021.

**Leising, Charbonneau, Becker,
Crider, Glick, Breaux,
Randolph Lonnie M**

January 7, 2021, read first time and referred to Committee on Health and Provider Services.

January 14, 2021, reported favorably — Do Pass.

February 9, 2021, read second time, amended, ordered engrossed.

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Reprinted
February 10, 2021

First Regular Session of the 122nd General Assembly (2021)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2020 Regular Session of the General Assembly.

SENATE BILL No. 10

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

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

- 1 SECTION 1. IC 16-39-2-6, AS AMENDED BY P.L.45-2020,
2 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2021]: Sec. 6. (a) Without the consent of the patient, the
4 patient's mental health record may only be disclosed as follows:
5 (1) To individuals who meet the following conditions:
6 (A) Are employed by:
7 (i) the provider at the same facility or agency;
8 (ii) a managed care provider (as defined in IC 12-7-2-127);
9 or
10 (iii) a health care provider or mental health care provider, if
11 the mental health records are needed to provide health care
12 or mental health services to the patient.
13 (B) Are involved in the planning, provision, and monitoring of
14 services.
15 (2) To the extent necessary to obtain payment for services
16 rendered or other benefits to which the patient may be entitled, as
17 provided in IC 16-39-5-3.

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- 1 (3) To the patient's court appointed counsel and to the Indiana
 2 protection and advocacy services commission.
- 3 (4) For research conducted in accordance with IC 16-39-5-3 and
 4 the rules of the division of mental health and addiction, the rules
 5 of the division of disability and rehabilitative services, the rules
 6 of the provider, or the rules of the Indiana archives and records
 7 administration and the oversight committee on public records.
- 8 (5) To the division of mental health and addiction for the purpose
 9 of data collection, research, and monitoring managed care
 10 providers (as defined in IC 12-7-2-127) who are operating under
 11 a contract with the division of mental health and addiction.
- 12 (6) To the extent necessary to make reports or give testimony
 13 required by the statutes pertaining to admissions, transfers,
 14 discharges, and guardianship proceedings.
- 15 (7) To a law enforcement agency if any of the following
 16 conditions are met:
- 17 (A) A patient escapes from a facility to which the patient is
 18 committed under IC 12-26.
- 19 (B) The superintendent of the facility determines that failure
 20 to provide the information may result in bodily harm to the
 21 patient or another individual.
- 22 (C) A patient commits or threatens to commit a crime on
 23 facility premises or against facility personnel.
- 24 (D) A patient is in the custody of a law enforcement officer or
 25 agency for any reason and:
- 26 (i) the information to be released is limited to medications
 27 currently prescribed for the patient or to the patient's history
 28 of adverse medication reactions; and
- 29 (ii) the provider determines that the release of the
 30 medication information will assist in protecting the health,
 31 safety, or welfare of the patient.
- 32 Mental health records released under this clause must be
 33 maintained in confidence by the law enforcement agency
 34 receiving them.
- 35 (8) To a coroner or medical examiner, in the performance of the
 36 individual's duties.
- 37 (9) To a school in which the patient is enrolled if the
 38 superintendent of the facility determines that the information will
 39 assist the school in meeting educational needs of the patient.
- 40 (10) To the extent necessary to satisfy reporting requirements
 41 under the following statutes:
- 42 (A) IC 12-10-3-10.



- 1 (B) IC 12-24-17-5.
 2 (C) IC 16-41-2-3.
 3 **(D) IC 16-50-1-8.**
 4 ~~(E)~~ (E) IC 31-25-3-2.
 5 ~~(F)~~ (F) IC 31-33-5-4.
 6 ~~(G)~~ (G) IC 34-30-16-2.
 7 ~~(H)~~ (H) IC 35-46-1-13.
 8 (11) To the extent necessary to satisfy release of information
 9 requirements under the following statutes:
 10 (A) IC 12-24-11-2.
 11 (B) IC 12-24-12-3, IC 12-24-12-4, and IC 12-24-12-6.
 12 (C) IC 12-26-11.
 13 (12) To another health care provider in a health care emergency.
 14 (13) For legitimate business purposes as described in
 15 IC 16-39-5-3.
 16 (14) Under a court order under IC 16-39-3.
 17 (15) With respect to records from a mental health or
 18 developmental disability facility, to the United States Secret
 19 Service if the following conditions are met:
 20 (A) The request does not apply to alcohol or drug abuse
 21 records described in 42 U.S.C. 290dd-2 unless authorized by
 22 a court order under 42 U.S.C. 290dd-2(b)(2)(c).
 23 (B) The request relates to the United States Secret Service's
 24 protective responsibility and investigative authority under 18
 25 U.S.C. 3056, 18 U.S.C. 871, or 18 U.S.C. 879.
 26 (C) The request specifies an individual patient.
 27 (D) The director or superintendent of the facility determines
 28 that disclosure of the mental health record may be necessary
 29 to protect a person under the protection of the United States
 30 Secret Service from serious bodily injury or death.
 31 (E) The United States Secret Service agrees to only use the
 32 mental health record information for investigative purposes
 33 and not disclose the information publicly.
 34 (F) The mental health record information disclosed to the
 35 United States Secret Service includes only:
 36 (i) the patient's name, age, and address;
 37 (ii) the date of the patient's admission to or discharge from
 38 the facility; and
 39 (iii) any information that indicates whether or not the patient
 40 has a history of violence or presents a danger to the person
 41 under protection.
 42 (16) To the statewide waiver ombudsman established under



- 1 IC 12-11-13, in the performance of the ombudsman's duties.
- 2 (b) If a licensed mental health professional or licensed paramedic,
 3 in the course of rendering a treatment intervention, determines that a
 4 patient may be a harm to himself or herself or others, the licensed
 5 mental health professional or licensed paramedic may request a
 6 patient's individualized mental health safety plan from a psychiatric
 7 crisis center, psychiatric inpatient unit, or psychiatric residential
 8 treatment provider. Each psychiatric crisis center, psychiatric inpatient
 9 unit, and psychiatric residential treatment provider shall, upon request
 10 and without the consent of the patient, share a patient's individualized
 11 mental health safety plan that is in the standard format established by
 12 the division of mental health and addiction under IC 12-21-5-6 with the
 13 following individuals who demonstrate proof of licensure and commit
 14 to protecting the information in compliance with state and federal
 15 privacy laws:
- 16 (1) A licensed mental health professional.
 - 17 (2) A licensed paramedic.
- 18 An individualized mental health safety plan disclosed under this
 19 subsection may be used only to support a patient's welfare and safety
 20 and is considered otherwise confidential information under applicable
 21 state and federal laws.
- 22 (c) After information is disclosed under subsection (a)(15) and if the
 23 patient is evaluated to be dangerous, the records shall be interpreted in
 24 consultation with a licensed mental health professional on the staff of
 25 the United States Secret Service.
- 26 (d) A person who discloses information under subsection (a)(7),
 27 (a)(15), or (b) in good faith is immune from civil and criminal liability.
- 28 SECTION 2. IC 16-50-1-8, AS ADDED BY P.L.48-2018,
 29 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 30 JULY 1, 2021]: Sec. 8. (a) In conducting a review under this chapter,
 31 the statewide maternal mortality review committee shall review all
 32 applicable records and information related to the death, including the
 33 following:
- 34 (1) Records held by the local or state health departments,
 35 including the death certificate.
 - 36 (2) Medical records submitted by the health care provider or
 37 health care facility.
 - 38 (3) Law enforcement records.
 - 39 (4) Coroner records, including an autopsy report.
 - 40 (5) Mental health records.
 - 41 (6) Emergency medical services reports.
 - 42 (7) Subject to IC 31-33-18-2, records held by the department of



- 1 child services.
- 2 (8) To the extent allowable under state and federal law, other
- 3 records held by the state department.
- 4 (b) The following shall provide to the statewide maternal mortality
- 5 review committee, in good faith, access to records concerning a case
- 6 under review under this chapter:
- 7 (1) A health care provider, **including a mental health**
- 8 **professional.**
- 9 (2) A health care facility.
- 10 (3) An individual.
- 11 (4) An entity.
- 12 (c) A person described in subsection (b) that provides access to
- 13 records in good faith under this section is not subject to liability in:
- 14 (1) a civil;
- 15 (2) an administrative;
- 16 (3) a disciplinary; or
- 17 (4) a criminal;
- 18 action that might otherwise be imposed as a result of the disclosure.
- 19 (d) Except as otherwise provided under this chapter, information
- 20 and records acquired and interviews conducted by the statewide
- 21 maternal mortality review committee in the exercise of the committee's
- 22 duties under this chapter are confidential and exempted from
- 23 disclosure.
- 24 (e) Records, information, documents, and reports acquired or
- 25 produced by the statewide maternal mortality review committee are
- 26 not:
- 27 (1) subject to subpoena or discovery; or
- 28 (2) admissible as evidence;
- 29 in any judicial or administrative proceeding. Information that is
- 30 otherwise discoverable or admissible from original sources is not
- 31 immune from discovery or use in any proceeding merely because the
- 32 information was presented during proceedings before the statewide
- 33 maternal mortality review committee.
- 34 (f) The statewide maternal mortality review committee members
- 35 and individuals who attend a statewide maternal mortality review
- 36 committee meeting at the invitation of the chairperson shall maintain
- 37 the confidentiality of records and information discussed and
- 38 disseminated during the statewide maternal mortality review committee
- 39 meeting.
- 40 (g) **In reviewing the medical records and mental health records**
- 41 **submitted by the health care provider or health care facility under**
- 42 **this section, the statewide maternal mortality review committee**



1 shall determine whether an abortion was performed on the
2 individual and if so, whether the abortion contributed or was
3 otherwise related to the maternal mortality. Any finding by the
4 statewide maternal mortality review committee that an abortion
5 contributed to or was a related factor of the maternal mortality
6 must be compiled and included in the annual report submitted
7 under section 9 of this chapter.



COMMITTEE REPORT

Madam President: The Senate Committee on Health and Provider Services, to which was referred Senate Bill No. 10, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is to SB 10 as introduced.)

CHARBONNEAU, Chairperson

Committee Vote: Yeas 8, Nays 0

 SENATE MOTION

Madam President: I move that Senate Bill 10 be amended to read as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 16-39-2-6, AS AMENDED BY P.L.45-2020, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 6. (a) Without the consent of the patient, the patient's mental health record may only be disclosed as follows:

- (1) To individuals who meet the following conditions:
 - (A) Are employed by:
 - (i) the provider at the same facility or agency;
 - (ii) a managed care provider (as defined in IC 12-7-2-127);
 - or
 - (iii) a health care provider or mental health care provider, if the mental health records are needed to provide health care or mental health services to the patient.
 - (B) Are involved in the planning, provision, and monitoring of services.
- (2) To the extent necessary to obtain payment for services rendered or other benefits to which the patient may be entitled, as provided in IC 16-39-5-3.
- (3) To the patient's court appointed counsel and to the Indiana protection and advocacy services commission.
- (4) For research conducted in accordance with IC 16-39-5-3 and the rules of the division of mental health and addiction, the rules of the division of disability and rehabilitative services, the rules of the provider, or the rules of the Indiana archives and records

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- administration and the oversight committee on public records.
- (5) To the division of mental health and addiction for the purpose of data collection, research, and monitoring managed care providers (as defined in IC 12-7-2-127) who are operating under a contract WITH the division of mental health and addiction.
- (6) To the extent necessary to make reports or give testimony required by the statutes pertaining to admissions, transfers, discharges, and guardianship proceedings.
- (7) To a law enforcement agency if any of the following conditions are met:
- (A) A patient escapes from a facility to which the patient is committed under IC 12-26.
 - (B) The superintendent of the facility determines that failure to provide the information may result in bodily harm to the patient or another individual.
 - (C) A patient commits or threatens to commit a crime on facility premises or against facility personnel.
 - (D) A patient is in the custody of a law enforcement officer or agency for any reason and:
 - (i) the information to be released is limited to medications currently prescribed for the patient or to the patient's history of adverse medication reactions; and
 - (ii) the provider determines that the release of the medication information will assist in protecting the health, safety, or welfare of the patient.
- Mental health records released under this clause must be maintained in confidence by the law enforcement agency receiving them.
- (8) To a coroner or medical examiner, in the performance of the individual's duties.
- (9) To a school in which the patient is enrolled if the superintendent of the facility determines that the information will assist the school in meeting educational needs of the patient.
- (10) To the extent necessary to satisfy reporting requirements under the following statutes:
- (A) IC 12-10-3-10.
 - (B) IC 12-24-17-5.
 - (C) IC 16-41-2-3.
 - (D) IC 16-50-1-8.**
 - ~~(E)~~ **(E)** IC 31-25-3-2.
 - ~~(F)~~ **(F)** IC 31-33-5-4.
 - ~~(G)~~ **(G)** IC 34-30-16-2.



~~(G)~~ **(H)** IC 35-46-1-13.

(11) To the extent necessary to satisfy release of information requirements under the following statutes:

(A) IC 12-24-11-2.

(B) IC 12-24-12-3, IC 12-24-12-4, and IC 12-24-12-6.

(C) IC 12-26-11.

(12) To another health care provider in a health care emergency.

(13) For legitimate business purposes as described in IC 16-39-5-3.

(14) Under a court order under IC 16-39-3.

(15) With respect to records from a mental health or developmental disability facility, to the United States Secret Service if the following conditions are met:

(A) The request does not apply to alcohol or drug abuse records described in 42 U.S.C. 290dd-2 unless authorized by a court order under 42 U.S.C. 290dd-2(b)(2)(c).

(B) The request relates to the United States Secret Service's protective responsibility and investigative authority under 18 U.S.C. 3056, 18 U.S.C. 871, or 18 U.S.C. 879.

(C) The request specifies an individual patient.

(D) The director or superintendent of the facility determines that disclosure of the mental health record may be necessary to protect a person under the protection of the United States Secret Service from serious bodily injury or death.

(E) The United States Secret Service agrees to only use the mental health record information for investigative purposes and not disclose the information publicly.

(F) The mental health record information disclosed to the United States Secret Service includes only:

(i) the patient's name, age, and address;

(ii) the date of the patient's admission to or discharge from the facility; and

(iii) any information that indicates whether or not the patient has a history of violence or presents a danger to the person under protection.

(16) To the statewide waiver ombudsman established under IC 12-11-13, in the performance of the ombudsman's duties.

(b) If a licensed mental health professional or licensed paramedic, in the course of rendering a treatment intervention, determines that a patient may be a harm to himself or herself or others, the licensed mental health professional or licensed paramedic may request a patient's individualized mental health safety plan from a psychiatric



crisis center, psychiatric inpatient unit, or psychiatric residential treatment provider. Each psychiatric crisis center, psychiatric inpatient unit, and psychiatric residential treatment provider shall, upon request and without the consent of the patient, share a patient's individualized mental health safety plan that is in the standard format established by the division of mental health and addiction under IC 12-21-5-6 with the following individuals who demonstrate proof of licensure and commit to protecting the information in compliance with state and federal privacy laws:

(1) A licensed mental health professional.

(2) A licensed paramedic.

An individualized mental health safety plan disclosed under this subsection may be used only to support a patient's welfare and safety and is considered otherwise confidential information under applicable state and federal laws.

(c) After information is disclosed under subsection (a)(15) and if the patient is evaluated to be dangerous, the records shall be interpreted in consultation with a licensed mental health professional on the staff of the United States Secret Service.

(d) A person who discloses information under subsection (a)(7), (a)(15), or (b) in good faith is immune from civil and criminal liability."

Renumber all SECTIONS consecutively.

(Reference is to SB 10 as printed January 15, 2021.)

LEISING

SENATE MOTION

Madam President: I move that Senate Bill 10 be amended to read as follows:

Page 1, delete lines 1 through 7, begin a new paragraph and insert:

"SECTION 1. IC 16-39-2-6, AS AMENDED BY P.L.45-2020, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 6. (a) Without the consent of the patient, the patient's mental health record may only be disclosed as follows:

(1) To individuals who meet the following conditions:

(A) Are employed by:

(i) the provider at the same facility or agency;

(ii) a managed care provider (as defined in IC 12-7-2-127);

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or

(iii) a health care provider or mental health care provider, if the mental health records are needed to provide health care or mental health services to the patient.

(B) Are involved in the planning, provision, and monitoring of services.

(2) To the extent necessary to obtain payment for services rendered or other benefits to which the patient may be entitled, as provided in IC 16-39-5-3.

(3) To the patient's court appointed counsel and to the Indiana protection and advocacy services commission.

(4) For research conducted in accordance with IC 16-39-5-3 and the rules of the division of mental health and addiction, the rules of the division of disability and rehabilitative services, the rules of the provider, or the rules of the Indiana archives and records administration and the oversight committee on public records.

(5) To the division of mental health and addiction for the purpose of data collection, research, and monitoring managed care providers (as defined in IC 12-7-2-127) who are operating under a contract WITH the division of mental health and addiction.

(6) To the extent necessary to make reports or give testimony required by the statutes pertaining to admissions, transfers, discharges, and guardianship proceedings.

(7) To a law enforcement agency if any of the following conditions are met:

(A) A patient escapes from a facility to which the patient is committed under IC 12-26.

(B) The superintendent of the facility determines that failure to provide the information may result in bodily harm to the patient or another individual.

(C) A patient commits or threatens to commit a crime on facility premises or against facility personnel.

(D) A patient is in the custody of a law enforcement officer or agency for any reason and:

(i) the information to be released is limited to medications currently prescribed for the patient or to the patient's history of adverse medication reactions; and

(ii) the provider determines that the release of the medication information will assist in protecting the health, safety, or welfare of the patient.

Mental health records released under this clause must be maintained in confidence by the law enforcement agency



receiving them.

(8) To a coroner or medical examiner, in the performance of the individual's duties.

(9) To a school in which the patient is enrolled if the superintendent of the facility determines that the information will assist the school in meeting educational needs of the patient.

(10) To the extent necessary to satisfy reporting requirements under the following statutes:

(A) IC 12-10-3-10.

(B) IC 12-24-17-5.

(C) IC 16-41-2-3.

(D) IC 16-50-1-8.

~~(E)~~ (E) IC 31-25-3-2.

~~(F)~~ (F) IC 31-33-5-4.

~~(G)~~ (G) IC 34-30-16-2.

~~(H)~~ (H) IC 35-46-1-13.

(11) To the extent necessary to satisfy release of information requirements under the following statutes:

(A) IC 12-24-11-2.

(B) IC 12-24-12-3, IC 12-24-12-4, and IC 12-24-12-6.

(C) IC 12-26-11.

(12) To another health care provider in a health care emergency.

(13) For legitimate business purposes as described in IC 16-39-5-3.

(14) Under a court order under IC 16-39-3.

(15) With respect to records from a mental health or developmental disability facility, to the United States Secret Service if the following conditions are met:

(A) The request does not apply to alcohol or drug abuse records described in 42 U.S.C. 290dd-2 unless authorized by a court order under 42 U.S.C. 290dd-2(b)(2)(c).

(B) The request relates to the United States Secret Service's protective responsibility and investigative authority under 18 U.S.C. 3056, 18 U.S.C. 871, or 18 U.S.C. 879.

(C) The request specifies an individual patient.

(D) The director or superintendent of the facility determines that disclosure of the mental health record may be necessary to protect a person under the protection of the United States Secret Service from serious bodily injury or death.

(E) The United States Secret Service agrees to only use the mental health record information for investigative purposes and not disclose the information publicly.



(F) The mental health record information disclosed to the United States Secret Service includes only:

- (i) the patient's name, age, and address;
- (ii) the date of the patient's admission to or discharge from the facility; and
- (iii) any information that indicates whether or not the patient has a history of violence or presents a danger to the person under protection.

(16) To the statewide waiver ombudsman established under IC 12-11-13, in the performance of the ombudsman's duties.

(b) If a licensed mental health professional or licensed paramedic, in the course of rendering a treatment intervention, determines that a patient may be a harm to himself or herself or others, the licensed mental health professional or licensed paramedic may request a patient's individualized mental health safety plan from a psychiatric crisis center, psychiatric inpatient unit, or psychiatric residential treatment provider. Each psychiatric crisis center, psychiatric inpatient unit, and psychiatric residential treatment provider shall, upon request and without the consent of the patient, share a patient's individualized mental health safety plan that is in the standard format established by the division of mental health and addiction under IC 12-21-5-6 with the following individuals who demonstrate proof of licensure and commit to protecting the information in compliance with state and federal privacy laws:

- (1) A licensed mental health professional.
- (2) A licensed paramedic.

An individualized mental health safety plan disclosed under this subsection may be used only to support a patient's welfare and safety and is considered otherwise confidential information under applicable state and federal laws.

(c) After information is disclosed under subsection (a)(15) and if the patient is evaluated to be dangerous, the records shall be interpreted in consultation with a licensed mental health professional on the staff of the United States Secret Service.

(d) A person who discloses information under subsection (a)(7), (a)(15), or (b) in good faith is immune from civil and criminal liability."

Renumber all SECTIONS consecutively.

(Reference is to SB 10 as printed January 15, 2021.)

BROWN L



SENATE MOTION

Madam President: I move that Senate Bill 10 be amended to read as follows:

Page 3, after line 2, begin a new paragraph and insert:

"(g) In reviewing the medical records and mental health records submitted by the health care provider or health care facility under this section, the statewide maternal mortality review committee shall determine whether an abortion was performed on the individual and if so, whether the abortion contributed or was otherwise related to the maternal mortality. Any finding by the statewide maternal mortality review committee that an abortion contributed to or was a related factor of the maternal mortality must be compiled and included in the annual report submitted under section 9 of this chapter."

(Reference is to SB 10 as printed January 15, 2021.)

BROWN L

