



January 29, 2016

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## HOUSE BILL No. 1069

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DIGEST OF HB 1069 (Updated January 27, 2016 5:37 pm - DI 69)

**Citations Affected:** IC 16-41; IC 31-34; IC 35-31.5; IC 35-42.

**Synopsis:** No contact orders and battery. Allows a petition to be filed with the juvenile court to order a person to refrain from contact with a member of a foster family home. Makes battery a Level 6 felony instead of a Class B misdemeanor if the offense is committed against a member of a foster family home by a person who is not a resident of the foster family home if the person who committed the offense is a relative of a person who lived in the foster family home at the time of the offense.

**Effective:** July 1, 2016.

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**Zent, Washburne, McNamara,  
Lawson L**

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January 5, 2016, read first time and referred to Committee on Courts and Criminal Code.  
January 28, 2016, amended, reported — Do Pass.

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HB 1069—LS 6485/DI 125





January 29, 2016

Second Regular Session of the 119th General Assembly (2016)

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 2015 Regular Session of the General Assembly.

## HOUSE BILL No. 1069

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A BILL FOR AN ACT to amend the Indiana Code concerning family law and juvenile law.

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

1 SECTION 1. IC 16-41-8-1, AS AMENDED BY THE TECHNICAL  
2 CORRECTIONS BILL OF THE 2016 GENERAL ASSEMBLY, IS  
3 AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]:  
4 Sec. 1. (a) As used in this chapter, "potentially disease transmitting  
5 offense" means any of the following:  
6 (1) Battery (~~IC 35-42-2-1(b)(2)~~): **involving placing a bodily fluid**  
7 **or waste on another person (IC 35-42-2-1).**  
8 (2) An offense relating to a criminal sexual act (as defined in  
9 IC 35-31.5-2-216), if sexual intercourse or other sexual conduct  
10 (as defined in IC 35-31.5-2-221.5) occurred.  
11 The term includes an attempt to commit an offense, if sexual  
12 intercourse or other sexual conduct (as defined in IC 35-31.5-2-221.5)  
13 occurred, and a delinquent act that would be a crime if committed by  
14 an adult.  
15 (b) Except as provided in this chapter, a person may not disclose or  
16 be compelled to disclose medical or epidemiological information

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1 involving a communicable disease or other disease that is a danger to  
2 health (as defined under rules adopted under IC 16-41-2-1). This  
3 information may not be released or made public upon subpoena or  
4 otherwise, except under the following circumstances:

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

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

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

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

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

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

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

29 (1) the individual;

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

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

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

35 (g) The provisions of this section regarding confidentiality apply to  
36 information obtained under IC 16-41-1 through IC 16-41-16.

37 SECTION 2. IC 16-41-8-5, AS AMENDED BY THE TECHNICAL  
38 CORRECTIONS BILL OF THE 2016 GENERAL ASSEMBLY, IS  
39 AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]:  
40 Sec. 5. (a) This section does not apply to medical testing of an  
41 individual for whom an indictment or information is filed for a sex  
42 crime and for whom a request to have the individual tested under



- 1 section 6 of this chapter is filed.
- 2 (b) The following definitions apply throughout this section:
- 3 (1) "Bodily fluid" means blood, human waste, or any other bodily
- 4 fluid.
- 5 (2) "Dangerous disease" means any of the following:
- 6 (A) Chancroid.
- 7 (B) Chlamydia.
- 8 (C) Gonorrhea.
- 9 (D) Hepatitis.
- 10 (E) Human immunodeficiency virus (HIV).
- 11 (F) Lymphogranuloma venereum.
- 12 (G) Syphilis.
- 13 (H) Tuberculosis.
- 14 (3) "Offense involving the transmission of a bodily fluid" means
- 15 any offense (including a delinquent act that would be a crime if
- 16 committed by an adult) in which a bodily fluid is transmitted from
- 17 the defendant to the victim in connection with the commission of
- 18 the offense.
- 19 (c) This subsection applies only to a defendant who has been
- 20 charged with a potentially disease transmitting offense. At the request
- 21 of an alleged victim of the offense, the parent, guardian, or custodian
- 22 of an alleged victim who is less than eighteen (18) years of age, or the
- 23 parent, guardian, or custodian of an alleged victim who is an
- 24 endangered adult (as defined in IC 12-10-3-2), the prosecuting attorney
- 25 shall petition a court to order a defendant charged with the commission
- 26 of a potentially disease transmitting offense to submit to a screening
- 27 test to determine whether the defendant is infected with a dangerous
- 28 disease. In the petition, the prosecuting attorney must set forth
- 29 information demonstrating that the defendant has committed a
- 30 potentially disease transmitting offense. The court shall set the matter
- 31 for hearing not later than forty-eight (48) hours after the prosecuting
- 32 attorney files a petition under this subsection. The alleged victim, the
- 33 parent, guardian, or custodian of an alleged victim who is less than
- 34 eighteen (18) years of age, and the parent, guardian, or custodian of an
- 35 alleged victim who is an endangered adult (as defined in IC 12-10-3-2)
- 36 are entitled to receive notice of the hearing and are entitled to attend
- 37 the hearing. The defendant and the defendant's counsel are entitled to
- 38 receive notice of the hearing and are entitled to attend the hearing. If,
- 39 following the hearing, the court finds probable cause to believe that the
- 40 defendant has committed a potentially disease transmitting offense, the
- 41 court may order the defendant to submit to a screening test for one (1)
- 42 or more dangerous diseases. If the defendant is charged with battery



1 ~~(IC 35-42-2-1(b)(2))~~; **involving placing a bodily fluid or waste on**  
 2 **another person (IC 35-42-2-1)**, the court may limit testing under this  
 3 subsection to a test only for human immunodeficiency virus (HIV).  
 4 However, the court may order additional testing for human  
 5 immunodeficiency virus (HIV) as may be medically appropriate. The  
 6 court shall take actions to ensure the confidentiality of evidence  
 7 introduced at the hearing.

8 (d) This subsection applies only to a defendant who has been  
 9 charged with an offense involving the transmission of a bodily fluid. At  
 10 the request of an alleged victim of the offense, the parent, guardian, or  
 11 custodian of an alleged victim who is less than eighteen (18) years of  
 12 age, or the parent, guardian, or custodian of an alleged victim who is  
 13 an endangered adult (as defined in IC 12-10-3-2), the prosecuting  
 14 attorney shall petition a court to order a defendant charged with the  
 15 commission of an offense involving the transmission of a bodily fluid  
 16 to submit to a screening test to determine whether the defendant is  
 17 infected with a dangerous disease. In the petition, the prosecuting  
 18 attorney must set forth information demonstrating that:

- 19 (1) the defendant has committed an offense; and  
 20 (2) a bodily fluid was transmitted from the defendant to the victim  
 21 in connection with the commission of the offense.

22 The court shall set the matter for hearing not later than forty-eight (48)  
 23 hours after the prosecuting attorney files a petition under this  
 24 subsection. The alleged victim of the offense, the parent, guardian, or  
 25 custodian of an alleged victim who is less than eighteen (18) years of  
 26 age, and the parent, guardian, or custodian of an alleged victim who is  
 27 an endangered adult (as defined in IC 12-10-3-2) are entitled to receive  
 28 notice of the hearing and are entitled to attend the hearing. The  
 29 defendant and the defendant's counsel are entitled to receive notice of  
 30 the hearing and are entitled to attend the hearing. If, following the  
 31 hearing, the court finds probable cause to believe that the defendant has  
 32 committed an offense and that a bodily fluid was transmitted from the  
 33 defendant to the alleged victim in connection with the commission of  
 34 the offense, the court may order the defendant to submit to a screening  
 35 test for one (1) or more dangerous diseases. If the defendant is charged  
 36 with battery ~~(IC 35-42-2-1(b)(2))~~; **involving placing bodily fluid or**  
 37 **waste on another person (IC 35-42-2-1)**, the court may limit testing  
 38 under this subsection to a test only for human immunodeficiency virus  
 39 (HIV). However, the court may order additional testing for human  
 40 immunodeficiency virus (HIV) as may be medically appropriate. The  
 41 court shall take actions to ensure the confidentiality of evidence  
 42 introduced at the hearing.



1 (e) The testimonial privileges applying to communication between  
 2 a husband and wife and between a health care provider and the health  
 3 care provider's patient are not sufficient grounds for not testifying or  
 4 providing other information at a hearing conducted in accordance with  
 5 this section.

6 (f) A health care provider (as defined in IC 16-18-2-163) who  
 7 discloses information that must be disclosed to comply with this  
 8 section is immune from civil and criminal liability under Indiana  
 9 statutes that protect patient privacy and confidentiality.

10 (g) The results of a screening test conducted under this section shall  
 11 be kept confidential if the defendant ordered to submit to the screening  
 12 test under this section has not been convicted of the potentially disease  
 13 transmitting offense or offense involving the transmission of a bodily  
 14 fluid with which the defendant is charged. The results may not be made  
 15 available to any person or public or private agency other than the  
 16 following:

- 17 (1) The defendant and the defendant's counsel.
- 18 (2) The prosecuting attorney.
- 19 (3) The department of correction or the penal facility, juvenile  
 20 detention facility, or secure private facility where the defendant  
 21 is housed.
- 22 (4) The alleged victim or the parent, guardian, or custodian of an  
 23 alleged victim who is less than eighteen (18) years of age, or the  
 24 parent, guardian, or custodian of an alleged victim who is an  
 25 endangered adult (as defined in IC 12-10-3-2), and the alleged  
 26 victim's counsel.

27 The results of a screening test conducted under this section may not be  
 28 admitted against a defendant in a criminal proceeding or against a child  
 29 in a juvenile delinquency proceeding.

30 (h) As soon as practicable after a screening test ordered under this  
 31 section has been conducted, the alleged victim or the parent, guardian,  
 32 or custodian of an alleged victim who is less than eighteen (18) years  
 33 of age, or the parent, guardian, or custodian of an alleged victim who  
 34 is an endangered adult (as defined in IC 12-10-3-2), and the victim's  
 35 counsel shall be notified of the results of the test.

36 (i) An alleged victim may disclose the results of a screening test to  
 37 which a defendant is ordered to submit under this section to an  
 38 individual or organization to protect the health and safety of or to seek  
 39 compensation for:

- 40 (1) the alleged victim;
- 41 (2) the alleged victim's sexual partner; or
- 42 (3) the alleged victim's family.



1 (j) The court shall order a petition filed and any order entered under  
2 this section sealed.

3 (k) A person that knowingly or intentionally:

4 (1) receives notification or disclosure of the results of a screening  
5 test under this section; and

6 (2) discloses the results of the screening test in violation of this  
7 section;

8 commits a Class B misdemeanor.

9 SECTION 3. IC 31-34-25-1, AS AMENDED BY P.L.146-2008,  
10 SECTION 614, IS AMENDED TO READ AS FOLLOWS  
11 [EFFECTIVE JULY 1, 2016]: Sec. 1. Any of the following may sign  
12 and file a petition for the juvenile court to require a person to refrain  
13 from direct or indirect contact with a child **or a member of a foster**  
14 **family home (as defined in IC 31-9-2-46.9):**

15 (1) The attorney for the department.

16 (2) The guardian ad litem or court appointed special advocate.

17 SECTION 4. IC 35-31.5-2-67 IS REPEALED [EFFECTIVE JULY  
18 1, 2016]. ~~Sec. 67. "Correctional professional", for purposes of~~  
19 ~~IC 35-42-2-1, has the meaning set forth in IC 35-42-2-1(b)(2).~~

20 SECTION 5. IC 35-31.5-2-139.3 IS ADDED TO THE INDIANA  
21 CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
22 [EFFECTIVE JULY 1, 2016]: **Sec. 139.3. "Foster family home", for**  
23 **purposes of IC 35-42-2-1, has the meaning set forth in**  
24 **IC 31-9-2-46.9.**

25 SECTION 6. IC 35-42-2-0.5 IS ADDED TO THE INDIANA CODE  
26 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
27 1, 2016]: **Sec. 0.5. "Relative", for purposes of IC 35-42-2-1, has the**  
28 **meaning set forth in IC 35-42-2-1(b).**

29 SECTION 7. IC 35-42-2-1, AS AMENDED BY P.L.147-2014,  
30 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
31 JULY 1, 2016]: Sec. 1. (a) As used in this section, "public safety  
32 official" means:

33 (1) a law enforcement officer, including an alcoholic beverage  
34 enforcement officer;

35 (2) an employee of a penal facility or a juvenile detention facility  
36 (as defined in IC 31-9-2-71);

37 (3) an employee of the department of correction;

38 (4) a probation officer;

39 (5) a parole officer;

40 (6) a community corrections worker;

41 (7) a home detention officer;

42 (8) a department of child services employee;





- 1 (9) a firefighter;  
 2 (10) an emergency medical services provider; or  
 3 (11) a judicial officer.
- 4 **(b) As used in this section, "relative" means an individual**  
 5 **related by blood, half-blood, adoption, marriage, or remarriage,**  
 6 **including:**
- 7 (1) a spouse;  
 8 (2) a parent or stepparent;  
 9 (3) a child or stepchild;  
 10 (4) a grandchild or stepgrandchild;  
 11 (5) a grandparent or stepgrandparent;  
 12 (6) a brother, sister, stepbrother, or stepsister;  
 13 (7) a niece or nephew;  
 14 (8) an aunt or uncle;  
 15 (9) a daughter-in-law or son-in-law;  
 16 (10) a mother-in-law or father-in-law; or  
 17 (11) a first cousin.
- 18 ~~(b)~~ (c) Except as provided in subsections ~~(c)~~ (d) through ~~(j)~~ (k), a  
 19 person who knowingly or intentionally:
- 20 (1) touches another person in a rude, insolent, or angry manner;  
 21 or  
 22 (2) in a rude, insolent, or angry manner places any bodily fluid or  
 23 waste on another person;  
 24 commits battery, a Class B misdemeanor.
- 25 ~~(c)~~ (d) The offense described in subsection ~~(b)(1)~~ (c)(1) or ~~(b)(2)~~  
 26 (c)(2) is a Class A misdemeanor if it results in bodily injury to any  
 27 other person.
- 28 ~~(d)~~ (e) The offense described in subsection ~~(b)(1)~~ (c)(1) or ~~(b)(2)~~  
 29 (c)(2) is a Level 6 felony if one (1) or more of the following apply:
- 30 (1) The offense results in moderate bodily injury to any other  
 31 person.  
 32 (2) The offense is committed against a public safety official while  
 33 the official is engaged in the official's official duty.  
 34 (3) The offense is committed against a person less than fourteen  
 35 (14) years of age and is committed by a person at least eighteen  
 36 (18) years of age.  
 37 (4) The offense is committed against a person of any age who has  
 38 a mental or physical disability and is committed by a person  
 39 having the care of the person with the mental or physical  
 40 disability, whether the care is assumed voluntarily or because of  
 41 a legal obligation.  
 42 (5) The offense is committed against an endangered adult (as



1 defined in IC 12-10-3-2).

2 (6) The offense is committed against a family or household  
3 member (as defined in IC 35-31.5-2-128) if the person who  
4 committed the offense:

5 (A) is at least eighteen (18) years of age; and

6 (B) committed the offense in the physical presence of a child  
7 less than sixteen (16) years of age, knowing that the child was  
8 present and might be able to see or hear the offense.

9 **(7) The offense is committed against a member of a foster  
10 family home (as defined in IC 35-31.5-2-139.3) by a person  
11 who is not a resident of the foster family home if the person  
12 who committed the offense is a relative of a person who lived  
13 in the foster family home at the time of the offense.**

14 ~~(e)~~ **(f)** The offense described in subsection ~~(b)(2)~~ **(c)(2)** is a Level  
15 6 felony if the person knew or recklessly failed to know that the bodily  
16 fluid or waste placed on another person was infected with hepatitis,  
17 tuberculosis, or human immunodeficiency virus.

18 ~~(f)~~ **(g)** The offense described in subsection ~~(b)(1)~~ **(c)(1)** or ~~(b)(2)~~  
19 **(c)(2)** is a Level 5 felony if one (1) or more of the following apply:

20 (1) The offense results in serious bodily injury to another person.

21 (2) The offense is committed with a deadly weapon.

22 (3) The offense results in bodily injury to a pregnant woman if the  
23 person knew of the pregnancy.

24 (4) The person has a previous conviction for battery against the  
25 same victim.

26 (5) The offense results in bodily injury to one (1) or more of the  
27 following:

28 (A) A public safety official while the official is engaged in the  
29 official's official duties.

30 (B) A person less than fourteen (14) years of age if the offense  
31 is committed by a person at least eighteen (18) years of age.

32 (C) A person who has a mental or physical disability if the  
33 offense is committed by an individual having care of the  
34 person with the disability, regardless of whether the care is  
35 assumed voluntarily or because of a legal obligation.

36 (D) An endangered adult (as defined in IC 12-10-3-2).

37 ~~(g)~~ **(h)** The offense described in subsection ~~(b)(2)~~ **(c)(2)** is a Level  
38 5 felony if:

39 (1) the person knew or recklessly failed to know that the bodily  
40 fluid or waste placed on another person was infected with  
41 hepatitis, tuberculosis, or human immunodeficiency virus; and

42 (2) the person placed the bodily fluid or waste on a public safety



- 1           official.
- 2           ~~(h)~~ **(i)** The offense described in subsection ~~(b)(1)~~ **(c)(1)** or ~~(b)(2)~~
- 3 **(c)(2)** is a Level 4 felony if it results in serious bodily injury to an
- 4 endangered adult (as defined in IC 12-10-3-2).
- 5           ~~(i)~~ **(j)** The offense described in subsection ~~(b)(1)~~ **(c)(1)** or ~~(b)(2)~~
- 6 **(c)(2)** is a Level 3 felony if it results in serious bodily injury to a person
- 7 less than fourteen (14) years of age if the offense is committed by a
- 8 person at least eighteen (18) years of age.
- 9           ~~(j)~~ **(k)** The offense described in subsection ~~(b)(1)~~ **(c)(1)** or ~~(b)(2)~~
- 10 **(c)(2)** is a Level 2 felony if it results in the death of one (1) or more of
- 11 the following:
- 12           (1) A person less than fourteen (14) years of age if the offense is
- 13 committed by a person at least eighteen (18) years of age.
- 14           (2) An endangered adult (as defined in IC 12-10-3-2).



COMMITTEE REPORT

Mr. Speaker: Your Committee on Courts and Criminal Code, to which was referred House Bill 1069, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 8, line 10, after "IC 35-31.5-2-139.3)" insert "**by a person who is not a resident of the foster family home**".

and when so amended that said bill do pass.

(Reference is to HB 1069 as introduced.)

WASHBURNE

Committee Vote: yeas 10, nays 0.

