



April 4, 2003

ENGROSSED SENATE BILL No. 485

DIGEST OF SB 485 (Updated April 1, 2003 5:35 PM - DI 107)

Citations Affected: IC 34-6; IC 34-30.

Synopsis: Immunity for inoculations. Provides civil immunity to a medical services provider for injury that results from the administration of an inoculation or other countermeasure against an actual or potential bioterrorist incident or public health emergency if the federal government authorizes the state department of health to implement a program of inoculations or other countermeasures.

Effective: Upon passage.

Skillman

(HOUSE SPONSORS — KUZMAN, KOCH)

January 21, 2003, read first time and referred to Committee on Criminal, Civil and Public Policy.

February 13, 2003, amended, reported favorably — Do Pass.

February 17, 2003, read second time, ordered engrossed. Engrossed.

February 18, 2003, read third time, passed. Yeas 50, nays 0.

HOUSE ACTION

March 13, 2003, read first time and referred to Committee on Judiciary.

April 3, 2003, amended, reported — Do Pass.

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ES 485—LS 7719/DI 107+



April 4, 2003

First Regular Session 113th General Assembly (2003)

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 2002 Regular or Special Session of the General Assembly.

ENGROSSED SENATE BILL No. 485

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

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

1 SECTION 1. IC 34-6-2-54 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 54. (a) "Health
3 care provider", for purposes of IC 34-18, has the meaning set forth in
4 IC 34-18-2-14.

5 (b) "Health care provider", for purposes of IC 34-30-12.5, has
6 the meaning set forth in IC 34-30-12.5-2.

7 SECTION 2. IC 34-30-12.5 IS ADDED TO THE INDIANA CODE
8 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
9 UPON PASSAGE]:

10 **Chapter 12.5. Health Care: Immunity of Hospitals and Certain**
11 **Persons Providing Smallpox Immunizations**

12 **Sec. 1. This chapter applies if the federal government authorizes**
13 **the state department of health to implement a program providing**
14 **for the administration of inoculations or other medical**
15 **countermeasures against an actual or a potential bioterrorist**
16 **incident or another actual or potential public health emergency**
17 **under:**

ES 485—LS 7719/DI 107+



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- (1) 42 U.S.C. 233(p)(2)(A); or
- (2) any other federal authority.

Sec. 2. As used in this chapter, "health care provider" means the following:

(1) An individual, a partnership, a professional corporation, a facility, or an institution licensed or legally authorized by the state to provide health care or professional services as any of the following:

- (A) A licensed physician.
- (B) A psychiatric hospital.
- (C) A hospital.
- (D) A health facility.
- (E) A nurse licensed under IC 25-23.
- (F) A paramedic.
- (G) An emergency technician.
- (H) An advanced emergency technician.

(2) An employee of an individual or entity described in subdivision (1).

(3) A member of the medical staff of an individual or entity described in subdivision (1).

(4) An individual who has been authorized by the governing board of an individual or entity described in subdivision (1) to provide health care services on the individual's or entity's premises or on the individual's or entity's behalf.

(5) An individual who, under contract with an individual or entity described in subdivision (1), administers an inoculation or another medical countermeasure against an actual or a potential bioterrorist incident or another actual or potential public health emergency under the circumstances described in section 1 of this chapter.

Sec. 3. A health care provider who administers an inoculation or another medical countermeasure against an actual or a potential bioterrorist incident or another actual or potential public health emergency after January 23, 2003, under the circumstances described in section 1 of this chapter is immune from civil liability for any injury or damage that results from the administration of the inoculation or other countermeasure, except for an act or omission that amounts to gross negligence or willful or wanton misconduct. This section shall not affect the right of any individual to receive:

- (1) benefits to which the individual would otherwise be entitled under:

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1 **(A) the worker's compensation law (IC 22-3-2 through**
2 **IC 22-3-6); or**
3 **(B) any pension law; or**
4 **(2) any benefits or compensation under any federal law.**
5 **SECTION 3. An emergency is declared for this act.**

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COMMITTEE REPORT

Mr. President: The Senate Committee on Criminal, Civil and Public Policy, to which was referred Senate Bill No. 485, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Replace the effective date in SECTION 1 with "[EFFECTIVE UPON PASSAGE]".

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

"SECTION 1. IC 34-6-2-54 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 54. (a) "Health care provider", for purposes of IC 34-18, has the meaning set forth in IC 34-18-2-14.

(b) "Health care provider", for purposes of IC 34-30-12.5, has the meaning set forth in IC 34-30-12.5-2."

Page 1, line 6, delete "A hospital that:" and insert **"This chapter applies if the federal government authorizes the state department of health to implement a program providing for the administration of inoculations or other medical countermeasures against an actual or a potential bioterrorist incident or another actual or potential public health emergency under:**

- (1) 42 U.S.C. 233(p)(2)(A); or**
- (2) any other federal authority."**

Page 1, delete lines 7 through 13, begin a new paragraph, and insert:

"Sec. 2. As used in this chapter, "health care provider" means the following:

- (1) An individual, a partnership, a professional corporation, a facility, or an institution licensed or legally authorized by the state to provide health care or professional services as any of the following:**
 - (A) A licensed physician.**
 - (B) A psychiatric hospital.**
 - (C) A hospital.**
 - (D) A health facility.**
 - (E) A nurse licensed under IC 25-23.**
 - (F) A paramedic.**
 - (G) An emergency technician.**
 - (H) An advanced emergency technician.**
- (2) An employee of an individual or entity described in subdivision (1).**
- (3) A member of the medical staff of an individual or entity**



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described in subdivision (1).

(4) An individual who has been authorized by the governing board of an individual or entity described in subdivision (1) to provide health care services on the individual's or entity's premises or on the individual's or entity's behalf.

(5) An individual who, under contract with an individual or entity described in subdivision (1), administers an inoculation or another medical countermeasure against an actual or a potential bioterrorist incident or another actual or potential public health emergency under the circumstances described in section 1 of this chapter.

Sec. 3. A health care provider who administers an inoculation or another medical countermeasure against an actual or a potential bioterrorist incident or another actual or potential public health emergency after January 23, 2003, under the circumstances described in section 1 of this chapter is immune from civil liability for any injury or damage that results from the administration of the inoculation or other countermeasure, except for an act or omission that amounts to gross negligence or willful or wanton misconduct.

SECTION 3. An emergency is declared for this act."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 485 as introduced.)

LONG, Chairperson

Committee Vote: Yeas 9, Nays 0.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Judiciary, to which was referred Senate Bill 485, 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 2, line 39, after "misconduct." insert "**This section shall not affect the right of any individual to receive:**

(1) benefits to which the individual would otherwise be entitled under:

(A) the worker's compensation law (IC 22-3-2 through IC 22-3-6); or

(B) any pension law; or

(2) any benefits or compensation under any federal law."

and when so amended that said bill do pass.

(Reference is to SB 485 as printed February 14, 2003.)

LAWSON L, Chair

Committee Vote: yeas 10, nays 1.

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