
SENATE BILL No. 347

DIGEST OF INTRODUCED BILL

Citations Affected: IC 35-38-1-10.8.

Synopsis: Dangerous communicable diseases. Authorizes a court to order a defendant to be tested for a dangerous communicable disease if there is probable cause to believe that the defendant could have exposed a victim to a dangerous communicable disease.

Effective: July 1, 2008.

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January 14, 2008, read first time and referred to Committee on Judiciary.

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Second Regular Session 115th General Assembly (2008)

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 2007 Regular Session of the General Assembly.

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SENATE BILL No. 347



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 35-38-1-10.8 IS ADDED TO THE INDIANA
2 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
3 [EFFECTIVE JULY 1, 2008]: **Sec. 10.8. (a) As used in this section,**
4 **"dangerous communicable disease" means a communicable disease**
5 **that is classified by the state department of health as dangerous**
6 **under IC 16-41-2-1.**

7 (b) If:
8 (1) **an alleged victim of an offense that could have resulted in**
9 **the transmission of a dangerous communicable disease to the**
10 **alleged victim makes a written request to a prosecuting**
11 **attorney under this section; and**
12 (2) **the court, after a hearing under this section, enters a**
13 **finding that there is probable cause to believe that:**
14 (A) **the alleged victim is a victim of an offense committed**
15 **by the defendant; and**
16 (B) **the offense could have resulted in the transmission of**
17 **a dangerous communicable disease to the alleged victim;**



1 the court may order an individual named as defendant in the
 2 prosecution of the offense to undergo a test for one (1) or more
 3 dangerous communicable diseases. The court is not required to
 4 find probable cause that the defendant is the carrier of a dangerous
 5 communicable disease.

6 (c) Before issuing an order for testing under subsection (b), the
 7 court shall conduct a hearing at which both the alleged victim and
 8 the defendant have the right to be present. Both the alleged victim
 9 and the defendant must be notified of:

- 10 (1) the date, time, and location of the hearing; and
 11 (2) their right to be present at the hearing.

12 (d) During the hearing, the only evidence that may be admitted
 13 are affidavits, counteraffidavits, and, if applicable, medical records
 14 that relate to the material facts of the case and that are used to
 15 support or rebut a finding of probable cause to believe that the
 16 alleged victim could have been exposed to a dangerous
 17 communicable disease as a result of the alleged offense.

18 (e) The written request of the alleged victim made under
 19 subsection (b) must be filed by the prosecuting attorney with the
 20 court and sealed by the court.

21 (f) If the defendant ordered under subsection (b) to undergo a
 22 test has not been convicted, the results of the test shall be kept
 23 confidential and, except as provided in subsection (g), may not be
 24 made available to any person or public or private agency other
 25 than the following:

- 26 (1) The defendant and the defendant's counsel.
 27 (2) The prosecuting attorney.
 28 (3) The department of correction.
 29 (4) The alleged victim and the alleged victim's counsel.

30 (g) An alleged victim may disclose the results of a test that the
 31 defendant is ordered to undergo under subsection (b) to an
 32 individual or organization to protect the health and safety of or to
 33 seek compensation for:

- 34 (1) the alleged victim;
 35 (2) a person whom the alleged victim could have exposed to
 36 the dangerous communicable disease; or
 37 (3) the alleged victim's family.

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