

Indiana

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April 8, 2011

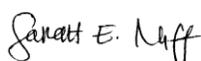
To the Reader:

The *Compendium of State HIV Testing Laws* describes key state HIV testing laws and policies. Each state's HIV testing laws are unique and many have undergone revision or supplementation since the release of the [CDC's 2006 HIV testing recommendations](#). The *Compendium* is designed to help clinicians understand HIV testing laws and to implement sound HIV testing policies. It should not, however, be used as an official legal document.

The NCCC provides clinical consultation for healthcare providers as part of the HRSA [AIDS Education and Training Centers](#) program. Clinicians with questions about HIV testing are encouraged to call the *National HIV Telephone Consultation Service (Warmline)* at (800) 933-3413. The Warmline also provides advice on HIV management, including antiretroviral treatment. Other NCCC consultation services include: the National Clinicians' Post-Exposure Prophylaxis Hotline ([PEPLINE](#)) at (888) 448-4911 for advice on managing occupational exposures to HIV and hepatitis; and the National Perinatal Consultation and Referral Service ([Perinatal HIV Hotline](#)) at (888) 448-8765 for consultation on preventing mother-to-child transmission of HIV.

We update the *Compendium* periodically, but it is beyond the scope of the project to perform updates and verification concurrent with all changes. We encourage readers to send updates (with citations when possible) and comments to Sarah Neff at neffs@nccc.ucsf.edu.

Thank you,



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Director of Research and Evaluation

&



Ronald H. Goldschmidt, MD
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The Warmline, PEPLINE, and Perinatal Hotline are part of the National HIV/AIDS Clinicians' Consultation Center (NCCC) based at San Francisco General Hospital/ UCSF. The NCCC is a component of the **AIDS Education and Training Centers (AETC) Program** funded by the Ryan White CARE Act of the **Health Resources and Services Administration (HRSA)** HIV/AIDS Bureau in partnership with the **Centers for Disease Control and Prevention (CDC)**.

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Definitions and Helpful Resources

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Definitions Commonly Used Nationally

- **Anonymous Testing** – Patient’s name is not recorded with test results.
- **Confidential** – Patient’s name is recorded with test results.
- **HIV Prevention Counseling** – Refers to an interactive process of assessing risk, recognizing specific behaviors that increase the risk for acquiring or transmitting HIV and developing a plan to take specific steps to reduce risks.¹
 - **Pre-test counseling** can include: (1) discussing HIV, risk factors and prevention methods; (2) explaining the meaning of positive and negative test results and their implications; (3) assessing the patient’s personal and social supports; (4) determining the patient’s readiness to cope with test results; (5) discussing disclosure of test results to others; and (6) advising the patient if reporting positive test results to health authorities is required.
 - **Post-test counseling** can include: (1) informing the patient of the results and meaning of the test results; (2) providing education about avoiding risks of sexual and injection drug exposures; and, for patients who test positive, (3) assessing the impact of test results for the patient and family; (3) explaining treatment options; (4) discussing partner counseling and disclosure of test results to others; and (5) initiating a support and treatment plan.
- **General Consent** – Consent for HIV screening is included in the general medical consent.
- **HIV** – Human Immunodeficiency Virus.
- **Informed Consent** – A process of communication between patient and provider through which an informed patient can choose whether to undergo HIV testing or decline to do so. Elements of informed consent typically include providing oral or written information regarding HIV, the risks and benefits of testing, the implications of HIV test results, how test results will be communicated, and the opportunity to ask questions.¹
- **Name-based reporting** – Cases are reported by patient name (required in all states except HI and VT).
- **Opt-in** – Patients typically are provided pre-HIV test counseling and must consent specifically to an HIV-antibody test, either orally or in writing.²
- **Opt-out** – Performing HIV screening after notifying the patient that: the test will be performed; and the patient may elect to decline or defer testing. Assent is inferred unless the patient declines testing.¹
- **Routine Testing** – HIV screening that is performed routinely during health-care encounters.
- **Rapid Testing** – Testing with any of the six FDA-approved rapid HIV tests that produce results in 30 minutes or less.³
- **Specific Consent** – Consent for the HIV screening is separate from the general medical consent.

Helpful Resources

CDC Recommendations and Guidelines: <http://www.cdc.gov/hiv/topics/testing/guideline.htm>

Emergency Department Implementation Guide: <http://edhivtestguide.org/>

Prenatal HIV Testing Website: <http://www.cdc.gov/hiv/topics/perinatal/1test2lives/>

For questions or comments about the compendium, contact NCCC: neffs@nccc.ucsf.edu

Clinicians with questions about HIV testing can call the Warmline at 800-933-3413.

¹ Revised Recommendations for HIV Testing of Adults, Adolescents, and Pregnant Women in Health-Care Settings. MMWR Recomm Rep. 2006 Sep 22;55(RR-14):1-17; quiz CE1-4. <http://www.cdc.gov/mmwr/preview/mmwrhtml/rr5514a1.htm>

² <http://www.cdc.gov/mmwr/PDF/wk/mm5145.pdf>

³ <http://www.cdc.gov/hiv/topics/testing/resources/factsheets/rt-lab.htm>

Indiana

A Quick Reference Guide for Clinicians to Indiana HIV Testing Laws

April 8, 2011

This Quick Reference Guide for clinicians is a summary of relevant Indiana state HIV testing laws. Note that if a section in this Quick Reference Guide reads “no specific provisions were found,” provisions actually might exist for this topic within the state’s statutes, codes, or rules and regulations, but probably are not essential to clinicians.

For a more complete synopsis of Indiana HIV testing laws, please refer to the section of the Compendium that follows this Quick Reference Guide.

Informed Consent

- Specific informed consent required; may be oral or in writing.

Counseling

- No specific provisions regarding counseling were found.

Provisos of Testing

- **Anonymous**
 - Testing must be available anonymously.
- **Rapid**
 - No specific provisions regarding rapid testing were found.
- **Routine**
 - No specific provisions regarding routine testing were found.

Disclosure

- No specific provisions regarding the notification of partners or contacts were found.

Minor/Adolescent Testing

- Persons 14 years of age or older may consent to STD testing and treatment, HIV not explicitly included.

Indiana

Perinatal Quick Reference Guide:

A Guide to Indiana Perinatal HIV Testing Laws for Clinicians

April 8, 2011

This Perinatal Quick Reference Guide for clinicians is a summary of relevant Indiana perinatal state HIV testing laws. Note that if a section in this Quick Reference Guide reads “no specific provisions were found,” provisions actually might exist for this topic within the state’s statutes, codes, or rules and regulations, but probably are not essential to clinicians.

For a more complete synopsis of Indiana HIV testing laws, please refer to the corresponding section of the *State HIV Testing Laws Compendium* (www.nccc.ucsf.edu), “Testing of pregnant women and/or newborns.”

Prenatal

- Testing of pregnant women in prenatal care by physicians or advanced nurse practitioners is through the opt-out process; refusal must be documented.

Labor & Delivery

- Testing of pregnant women presenting to labor or delivery with undocumented HIV status by physicians or advanced nurse practitioners is through the opt-out process.

Neonatal

- Neonatal testing as deemed necessary by the physician when the mother refuses, except with a written religious objection.

Other

- **Counseling**
 - Pre-test information and counseling of pregnant women is required by prenatal care providers and must be documented.
 - The following HIV information must be given by providers or their designees to pregnant women at appropriate times surrounding delivery (see *Compendium* for full provisions):
 - (A) An explanation of the nature of AIDS and HIV which (1) is consistent with MMWR 41, RR-17, and MMWR 43, RR12 & (2) includes the following elements: (a) HIV is transmitted from person-to-person through blood, semen, vaginal secretions, or breast milk & (b) HIV is a virus that, without treatment, destroys the immune system, creating a defect in cell-mediated immune response, causing increased susceptibility to opportunistic infections, certain rare cancers, and AIDS.
 - (B) Information that it is unlawful to discriminate against HIV+ persons in areas of employment, housing, and provision of health care services.
 - (C) Information that HIV/AIDS+ women are not to engage in high-risk activity without warning past, present, or future partners. Carriers have a duty to warn persons at risk, including spouses of the last 10 yrs, of the carrier’s disease status and & the need to seek health care.
 - (D) HIV risk behavior information that is consistent with MMWR 50, RR19, including: (1) high-risk activities refer to sexual or needle-sharing contact & (2) HIV is known to be transmitted through blood, semen, vaginal secretions, and breast milk.
 - (E) Information about the risk of transmission through breastfeeding that is consistent with MMWR 50, RR19, including that breastfeeding by an HIV+ woman risks transmission.
 - Post-test, a provider, or his or her designee, must do the following: (1) deliver results in a direct, straightforward, and confidential manner & (2) deliver results after testing ASAP.
 - If the test results are positive, the treating provider, or his or her designee must do the following face-to-face: (1) explain the side effects of any HIV treatment in a direct, straightforward, confidential manner; (2) discuss pros and cons of drug therapy initiation; (3) discuss treatment recommendations based on MMWR 51, RR-18; & (4) give post-test counseling.

**Indiana
State Policies Relating to HIV Testing, 2011**

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Indiana Code [IC]

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Title 35: Criminal Law and Procedure..... Pages 22-25

Indiana Administrative Code [IAC]

Title 410: Indiana State Department of Health..... Pages 26-29

	Policy Category	Type	Section Code(s)
RESTRICTIONS/MANDATED TESTING	Restrictions on use of HIV test	No related laws found	
	Mandatory testing within the criminal justice system	All newly admitted inmates	IC §11-10-3-2.5
		Potential transmission to victims	IC §31-37-19-12
		Convicted sex offenders	IC §35-38-1-10.7 IC §35-41-1-19.3
		Testing of defendant with probable cause upon request of victim	IC §35-38-1-10.5
		Convicted of controlled substance offense if person-to-person delivery or use by one person on another of a contaminated sharp	IC §35-38-1-10.5 IC §35-41-1-19.4
		Convicts of probation for offenses of criminal sex acts and controlled substances (see above)	IC §35-38-2-2.3 IC §35-41-1-19.3 IC §35-41-1-19.4
		Convicted child delinquent sex offenders	IC §31-37-19-12
		At the request of victims of a potentially disease transmitting offense	IC §16-41-8-5
	Mandatory testing outside of the criminal justice system	Neonatal testing, as deemed necessary by physician, when mother refuses consent. Testing offered to all pregnant women with an opt-out clause.	IC §16-41-6-4 IC §16-41-6-5 IC §16-41-6-6 IC §16-41-6-7
Screening of blood/organ/anatomical donations		IC §16-41-12-11 IC §16-41-12-13	

		Testing of semen donors	IC §16-41-14-5 IC §16-41-14-7
		Court may order testing	IC §16-41-6-1 IC §35-38-1-10.5(a) IC §35-38-2-2.3 (a)(16)
PRE-TESTING	Mandatory offering of HIV/AIDS information and/or testing	Persons seeking marriage licenses must receive HIV information	IC §31-11-4-5
		Practitioner referral of sperm donor to counseling if positive confirmatory test	IC §16-41-14-10
		HIV information must be offered to pregnant women by a provider at appropriate times surrounding delivery	410 IAC 1-7-10
	Informed consent	Specific informed consent required – oral or written	IC §16-41-6-1
	Counseling requirements	Pre-test information and counseling must be offered to pregnant women by the prenatal care provider and documented	410 IAC 1-6-4 410 IAC 1-6-6 410 IAC 1-7-7 IC §16-41-6-8
		Post-test counseling must be provided to pregnant women with HIV positive results	410 IAC 1-7-7
		Counseling for victims of a sex offense must be provided	IC §31-37-19-12
Anonymous testing	Available, reported by code	410 IAC 1-2.3-48 410 IAC 1-2.3-76	
POST-TESTING	Disclosure/confidentiality	Those required to collect HIV status information may not disclose without consent except for public health reasons	IC §35-38-1-10.5 IC §35-38-1-10.6 IC §35-38-1-10.7
		Must disclose HIV status of offender to victim of sex offense	IC §31-37-19-12 IC §35-38-1-10.6
		Release may be made of medical information in cases of potentially disease transmitting offenses	IC §16-41-8-1 IC §16-41-8-4
	Reporting	Name-based reporting	IC §16-41-2-3 410 IAC 1-2.3-48 410 IAC 1-2.3-76

OTHER	Testing of pregnant women and/or newborns	Testing by physician or advanced nurse practitioner of women presenting to labor and delivery with undocumented HIV status – opt-out testing; must document refusal	IC §16-41-6-6 IC §16-41-6-7 IC §16-41-6-8 410 IAC 1-6-6
		Pregnant women in prenatal care of physicians or advanced nurse practitioner – opt-out testing; must document refusal	IC §16-41-6-5 IC §16-41-6-8
		Neonatal testing, as deemed necessary by physician, when mother refuses consent except with written religious objection; must notify and counsel mother	IC §16-41-6-4
	Testing of minors/adolescents	Minors may consent to treatment for STDs	IC §16-36-1-3
	Rapid HIV testing	No related laws found	
	Training and education of health care providers	No related laws found	

Recommended Resources

Indiana General Assembly

<http://www.in.gov/legislative/ic/code/>

Indiana Administrative Code – State Department of Health

<http://www.in.gov/legislative/iac/title410.html>

Indiana Department of Health

<http://www.in.gov/isdh/>

Title 11: Corrections

IN Title 11 Code §	Code Language
§ 11-10-3-2.5	<p>Tests for HIV and hepatitis C</p> <p>(a) As used in this section, "confirmatory test" means a laboratory test or a series of tests approved by the state department of health and used in conjunction with a screening test to confirm or refute the results of the screening test for the human immunodeficiency virus (HIV) antigen or antibodies to the human immunodeficiency virus (HIV).</p> <p>(b) As used in this section, "screening test" means a laboratory screening test or a series of tests approved by the state department of health to determine the possible presence of the human immunodeficiency virus (HIV) antigen or antibodies to the human immunodeficiency virus (HIV).</p> <p>(c) For an individual who is committed to the department after June 30, 2001, the examination required under section 2(a) [IC 11-10-3-2(a)] of this chapter must include the following:</p> <ol style="list-style-type: none"> (1) A blood test for hepatitis C. (2) A screening test for the human immunodeficiency virus (HIV) antigen or antibodies to the human immunodeficiency virus (HIV). <p>(d) If the screening test required under subsection (c)(2) indicates the presence of antibodies to the human immunodeficiency virus (HIV), the department shall administer a confirmatory test to the individual.</p> <p>(e) The department may require an individual who:</p> <ol style="list-style-type: none"> (1) was committed to the department before July 1, 2001; and (2) is in the custody of the department after June 30, 2001; <p>to undergo the tests required by subsection (c) and, if applicable, subsection (d).</p> <p>(f) Except as otherwise provided by state or federal law, the results of a test administered under this section are confidential.</p> <p>(g) The department shall, beginning September 1, 2002, file an annual report in an electronic format under IC 5-14-6 with the executive director of the legislative services agency containing statistical information on the number of individuals tested and the number of positive test results determined under this section.</p>

Title 16: Health

IN Title 16 Code §	Code Language
§ 16-36-1-3	<p>Consent to own health care; minors</p> <p>Sec. 3. (a) Except as provided in subsections (b) and (c), unless incapable of consenting under section 4 of this chapter, an individual may consent to the individual's own health care if the individual is:</p> <ol style="list-style-type: none"> (1) an adult; or (2) a minor and: <ol style="list-style-type: none"> (A) is emancipated; (B) is: <ol style="list-style-type: none"> (i) at least fourteen (14) years of age; (ii) not dependent on a parent for support; (iii) living apart from the minor's parents or from an individual in loco parentis; and (iv) managing the minor's own affairs; (C) is or has been married; (D) is in the military service of the United States; or (E) is authorized to consent to the health care by any other statute. <p>(b) A person at least seventeen (17) years of age is eligible to donate blood in a voluntary and noncompensatory blood program without obtaining parental permission.</p> <p>(c) An individual who has, suspects that the individual has, or has been exposed to a venereal disease is competent to give consent for medical or hospital care or treatment of the individual.</p>
§ 16-41-2-3	<p>Reporting of HIV infectious cases</p> <p>(a) The following persons shall report to the state department each case of human immunodeficiency virus (HIV) infection, including each confirmed case of acquired immune deficiency syndrome (AIDS):</p> <ol style="list-style-type: none"> (1) A licensed physician. (2) A hospital licensed under IC 16-21. (3) A medical laboratory. (4) The department of correction. <p>The report must comply with rules adopted by the state department.</p> <p>(b) The records of the state department must indicate, if known:</p> <ol style="list-style-type: none"> (1) whether the individual had undergone any blood transfusions before being diagnosed as having AIDS or HIV infection; (2) the place the transfusions took place; (3) the blood center that furnished the blood; and (4) any other known risk factors. <p>(c) A case report concerning HIV infection that does not involve a confirmed case of AIDS submitted to the state department under this section that involves an individual:</p> <ol style="list-style-type: none"> (1) enrolled in a formal research project for which a written study protocol has been filed with the state department; (2) who is tested anonymously at a designated counseling or testing

IN Title 16 Code §	Code Language
	<p>site; or</p> <p>(3) who is tested by a health care provider permitted by rule by the state department to use a number identifier code; may not include the name or other identifying characteristics of the individual tested.</p>
§ 16-41-6-1	<p>Testing for antibody or antigen to HIV</p> <p>(a) Except as provided in IC 16-41-10-2.5 and subsection (b), a person may not perform a screening or confirmatory test for the antibody or antigen to HIV without the oral or written consent of the individual to be tested or a representative as authorized under IC 16-36-1. A physician ordering the test or the physician's authorized representative shall document whether or not the individual has consented. The test for the antibody or antigen to HIV may not be performed on a woman under section 5 or 6 [IC 16-41-6-5 or IC 16-41-6-6] of this chapter if the woman refuses under section 7 [IC 16-41-6-7] of this chapter to consent to the test.</p> <p>(b) The test for the antibody or antigen to HIV may be performed if one (1) of the following conditions exists:</p> <p>(1) If ordered by a physician who has obtained a health care consent under IC 16-36-1 or an implied consent under emergency circumstances and the test is medically necessary to diagnose or treat the patient's condition.</p> <p>(2) Under a court order based on clear and convincing evidence of a serious and present health threat to others posed by an individual. A hearing held under this subsection shall be held in camera at the request of the individual.</p> <p>(3) If the test is done on blood collected or tested anonymously as part of an epidemiologic survey under IC 16-41-2-3 or IC 16-41-17-10(a)(5).</p> <p>(4) The test is ordered under section 4 [IC 16-41-6-4] of this chapter.</p> <p>(5) The test is required or authorized under IC 11-10-3-2.5.</p> <p>(c) A court may order a person to undergo testing for HIV under IC 35-38-1-10.5(a) or IC 35-38-2-2.3(a)(16).</p>
§ 16-41-6-4	<p>Testing of newborn infants for HIV</p> <p>(a) Subject to subsection (f), if:</p> <p>(1) the mother of a newborn infant has not had a test performed under section 5 or 6 [IC 16-41-6-5 or IC 16-41-6-6] of this chapter;</p> <p>(2) the mother of a newborn infant has refused a test for the newborn infant to detect HIV or the antibody or antigen to HIV; and</p> <p>(3) a physician believes that testing the newborn infant is medically necessary; the physician overseeing the care of the newborn infant may order a confidential test for the newborn infant in order to detect HIV or the antibody or antigen to HIV. The test must be ordered at the earliest feasible time not exceeding forty-eight (48) hours after the birth of the infant.</p>

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	<p>(b) If the physician orders a test under subsection (a), the physician must:</p> <ol style="list-style-type: none"> (1) notify the mother of the newborn infant of the test; and (2) provide HIV information and counseling to the mother. The information and counseling must include the following: <ol style="list-style-type: none"> (A) The purpose of the test. (B) The risks and benefits of the test. (C) A description of the methods of HIV transmission. (D) A discussion of risk reduction behavior modifications, including methods to reduce the risk of perinatal HIV transmission and HIV transmission through breast milk. (E) Referral information to other HIV prevention, health care, and psychosocial services. <p>(c) The confidentiality provisions of IC 16-41-2-3 apply to this section.</p> <p>(d) The results of the confidential test ordered under subsection (a) must be released to the mother of the newborn infant.</p> <p>(e) If a test ordered under subsection (a) is positive, the person who provides the results of the test shall inform the mother of the newborn infant of treatment options or referral options available to the newborn infant.</p> <p>(f) If a parent of the newborn infant objects in writing for reasons pertaining to religious beliefs, the newborn infant is exempt from the test under subsection (a).</p> <p>(g) The state department shall adopt rules under IC 4-22-2 to carry out this section.</p> <p>(h) The results of a test performed under this section are confidential.</p>
§ 16-41-6-5	<p>Testing pregnant women for HIV</p> <p>(a) This section applies to:</p> <ol style="list-style-type: none"> (1) a physician licensed under IC 25-22.5; or (2) an advanced practice nurse licensed under IC 25-23; <p>who provides prenatal care within the scope of the provider's license.</p> <p>(b) Subject to section 8 [IC 16-41-6-8] of this chapter, an individual described in subsection (a) who:</p> <ol style="list-style-type: none"> (1) diagnoses the pregnancy of a woman; or (2) is primarily responsible for providing prenatal care to a pregnant woman; shall order to be taken a sample of the pregnant woman's blood and shall submit the sample to an approved laboratory for a standard licensed diagnostic test for HIV.
§ 16-41-6-6	<p>Testing women for HIV at time of delivery</p>

IN Title 16 Code §	Code Language
	Subject to section 8 [IC 16-41-6-8] of this chapter, if, at the time of delivery, there is no written evidence that a standard licensed diagnostic test for HIV has been performed under section 5 [IC 16-41-6-5] of this chapter, the physician or advanced practice nurse in attendance at the delivery shall order to be taken a sample of the woman's blood at the time of the delivery and shall submit the sample to an approved laboratory for a standard licensed diagnostic test for HIV.
§ 16-41-6-7	<p>Right of pregnant woman to refuse HIV test</p> <p>A pregnant woman has a right to refuse a test under section 5 or 6 [IC 16-41-6-5 or IC 16-41-6-6] of this chapter.</p>
§ 16-41-6-8	<p>Informing pregnant woman of information; documenting information given and a refusal of test; information if test results positive; confidentiality</p> <p>Sec. 8. (a) This section applies to a physician or an advanced practice nurse who orders an HIV test under section 5 or 6 of this chapter or to the physician's or nurse's designee.</p> <p>(b) An individual described in subsection (a) shall:</p> <ol style="list-style-type: none"> (1) inform the pregnant woman that: <ol style="list-style-type: none"> (A) the individual is required by law to order an HIV test unless the pregnant woman refuses; and (B) the pregnant woman has a right to refuse the test; and (2) explain to the pregnant woman: <ol style="list-style-type: none"> (A) the purpose of the test; and (B) the risks and benefits of the test. <p>(c) An individual described in subsection (a) shall document in the pregnant woman's medical records that the pregnant woman received the information required under subsection (b).</p> <p>(d) If a pregnant woman refuses to consent to an HIV test, the refusal must be noted in the pregnant woman's medical records.</p> <p>(e) If a test ordered under section 5 or 6 of this chapter is positive, an individual described in subsection (a):</p> <ol style="list-style-type: none"> (1) shall inform the pregnant woman of the test results; (2) shall inform the pregnant woman of the treatment options or referral options available to the pregnant woman; and (3) shall: <ol style="list-style-type: none"> (A) provide the pregnant woman with a description of the methods of HIV transmission; (B) discuss risk reduction behavior modifications with the pregnant woman, including methods to reduce the risk of perinatal HIV transmission and HIV transmission through breast milk; and (C) provide the pregnant woman with referral information to other HIV prevention, health care, and psychosocial services.

IN Title 16 Code §	Code Language
	<p>(f) The provisions of IC 16-41-2-3 apply to a positive HIV test under section 5 or 6 of this chapter.</p> <p>(g) The results of a test performed under section 5 or 6 of this chapter are confidential.</p> <p>(h) As a routine component of prenatal care, every individual described in subsection (a) is required to provide information and counseling regarding HIV and the standard licensed diagnostic test for HIV and to offer and recommend the standard licensed diagnostic test for HIV.</p> <p>(i) An individual described in subsection (a) shall obtain a statement, signed by the pregnant woman, acknowledging that the pregnant woman was counseled and provided the required information set forth in subsection (b) to ensure that an informed decision has been made.</p> <p>(j) A pregnant woman who refuses a test under this section must do so in writing.</p>
§ 16-41-7-1	<p>Definitions -- Carriers of dangerous communicable disease have duty to warn persons at risk</p> <p>(a) This section applies to the following dangerous communicable diseases: (1) Acquired immune deficiency syndrome (AIDS). (2) Human immunodeficiency virus (HIV). (3) Hepatitis B.</p> <p>(b) As used in this section, "high risk activity" means sexual or needle sharing contact that has been demonstrated epidemiologically to transmit a dangerous communicable disease described in subsection (a).</p> <p>(c) As used in this section, "person at risk" means: (1) Past and present sexual or needle sharing partners who may have engaged in high risk activity; or (2) Sexual or needle sharing partners before engaging in high risk activity; with the carrier of a dangerous communicable disease described in subsection (a).</p> <p>(d) Carriers who know of their status as a carrier of a dangerous communicable disease described in subsection (a) have a duty to warn or cause to be warned by a third party a person at risk of the following: (1) The carrier's disease status. (2) The need to seek health care such as counseling and testing.</p>
§ 16-41-8-1	<p>(a) As used in this chapter, "potentially disease transmitting offense" means any of the following: (1) Battery by body waste (IC 35-42-2-6). (2) An offense relating to a criminal sexual act (as defined in IC 35-41-1-19.3), if sexual intercourse or deviate sexual conduct occurred.</p>

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	<p>The term includes an attempt to commit an offense, if sexual intercourse or deviate sexual conduct occurred, and a delinquent act that would be a crime if committed by an adult.</p> <p>(b) Except as provided in this chapter, a person may not disclose or be compelled to disclose medical or epidemiological information involving a communicable disease or other disease that is a danger to health (as defined under rules adopted under IC 16-41-2-1). This information may not be released or made public upon subpoena or otherwise, except under the following circumstances:</p> <p>(1) Release may be made of medical or epidemiologic information for statistical purposes if done in a manner that does not identify an individual.</p> <p>(2) Release may be made of medical or epidemiologic information with the written consent of all individuals identified in the information released.</p> <p>(3) Release may be made of medical or epidemiologic information to the extent necessary to enforce public health laws, laws described in IC 31-37-19-4 through IC 31-37-19-6, IC 31-37-19-9 through IC 31-37-19-10, IC 31-37-19-12 through IC 31-37-19-23, IC 35-38-1-7.1, and IC 35-42-1-7, or to protect the health or life of a named party.</p> <p>(4) Release may be made of the medical information of a person in accordance with this chapter.</p> <p>(c) Except as provided in this chapter, a person responsible for recording, reporting, or maintaining information required to be reported under IC 16-41-2 who recklessly, knowingly, or intentionally discloses or fails to protect medical or epidemiologic information classified as confidential under this section commits a Class A misdemeanor.</p> <p>(d) In addition to subsection (c), a public employee who violates this section is subject to discharge or other disciplinary action under the personnel rules of the agency that employs the employee.</p> <p>(e) Release shall be made of the medical records concerning an individual to:</p> <p>(1) the individual;</p> <p>(2) a person authorized in writing by the individual to receive the medical records; or</p> <p>(3) a coroner under IC 36-2-14-21.</p> <p>(f) An individual may voluntarily disclose information about the individual's communicable disease.</p> <p>(g) The provisions of this section regarding confidentiality apply to information obtained under IC 16-41-1 through IC 16-41-16.</p>
§ 16-41-8-4	<p>Sec. 4. (a) This section applies to the release of medical information that may be relevant to the prosecution or defense of a person who has been charged with a potentially disease transmitting offense.</p> <p>(b) A:</p> <p>(1) prosecuting attorney may seek to obtain access to a defendant's medical information if the defendant has been charged with a potentially disease causing offense; and</p> <p>(2) defendant who has been charged with a potentially disease causing offense may seek access to the medical information of another person if the medical information would be relevant to the defendant's defense;</p>

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	<p>by filing a verified petition for the release of medical information with the court.</p> <p>(c) The prosecuting attorney or defendant who files a petition under subsection (b) shall serve a copy of the petition on:</p> <ol style="list-style-type: none"> (1) the person whose medical information is sought; (2) the guardian, guardian ad litem, or court appointed special advocate appointed for a minor, parent, or custodian of a person who is incompetent, if applicable; and (3) the provider that maintains the record, or the attorney general if the provider is a state agency; <p>at the time of filing in accordance with Indiana Trial Rule 4.</p> <p>(d) The court shall set the matter for hearing not later than twenty (20) days after the date of filing.</p> <p>(e) If, following a hearing for release of a person's medical information, the court finds probable cause to believe that the medical information may be relevant to the prosecution or defense of a person who has been charged with a potentially disease transmitting offense, the court shall order the person having custody of the person's medical information to release the medical information to the court.</p> <p>(f) The court shall examine the person's medical information in camera. If, after examining the medical information in camera and considering the evidence presented at the hearing, the court finds probable cause to believe that the medical information is relevant to the prosecution or defense of a person who has been charged with a potentially disease transmitting offense, the court may order the release of a person's medical information to the petitioner.</p> <p>(g) In an order issued under subsection (f), the court shall:</p> <ol style="list-style-type: none"> (1) permit the disclosure of only those parts of the person's medical information that are essential to fulfill the objective of the order; (2) restrict access to the medical information to those persons whose need for the information is the basis of the order; and (3) include in its order any other appropriate measures to limit disclosure of the medical information to protect the right to privacy of the person who is the subject of the medical information. <p>(h) A hearing for the release of a person's medical information may be closed to the public. The transcript of the hearing, the court's order, and all documents filed in connection with the hearing are confidential. In addition, if a person's medical information is disclosed in a legal proceeding, the court shall order the record or transcript of the testimony to be preserved as a confidential court record.</p> <p>(i) This section does not prohibit the application to medical information of any law concerning medical information that is not addressed by this section.</p>
§ 16-41-8-5	<p>(a) The following definitions apply throughout this section:</p> <ol style="list-style-type: none"> (1) "Bodily fluid" means blood, human waste, or any other bodily fluid. (2) "Dangerous disease" means any of the following: <ol style="list-style-type: none"> (A) Chancroid. (B) Chlamydia. (C) Gonorrhea.

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	<p>(D) Hepatitis. (E) Human immunodeficiency virus (HIV). (F) Lymphogranuloma venereum. (G) Syphilis. (H) Tuberculosis.</p> <p>(3) "Offense involving the transmission of a bodily fluid" means any offense (including a delinquent act that would be a crime if committed by an adult) in which a bodily fluid is transmitted from the defendant to the victim in connection with the commission of the offense.</p> <p>(b) This subsection applies only to a defendant who has been charged with a potentially disease transmitting offense. At the request of an alleged victim of the offense, the parent, guardian, or custodian of an alleged victim who is less than eighteen (18) years of age, or the parent, guardian, or custodian of an alleged victim who is an endangered adult (as defined in IC 12-10-3-2), the prosecuting attorney shall petition a court to order a defendant charged with the commission of a potentially disease transmitting offense to submit to a screening test to determine whether the defendant is infected with a dangerous disease. In the petition, the prosecuting attorney must set forth information demonstrating that the defendant has committed a potentially disease transmitting offense. The court shall set the matter for hearing not later than forty-eight (48) hours after the prosecuting attorney files a petition under this subsection. The alleged victim, the parent, guardian, or custodian of an alleged victim who is less than eighteen (18) years of age, and the parent, guardian, or custodian of an alleged victim who is an endangered adult (as defined in IC 12-10-3-2) are entitled to receive notice of the hearing and are entitled to attend the hearing. The defendant and the defendant's counsel are entitled to receive notice of the hearing and are entitled to attend the hearing. If, following the hearing, the court finds probable cause to believe that the defendant has committed a potentially disease transmitting offense, the court may order the defendant to submit to a screening test for one (1) or more dangerous diseases. If the defendant is charged with committing battery by body waste (IC 35-42-2-6), the court may limit testing under this subsection to a test only for human immunodeficiency virus (HIV). However, the court may order additional testing for human immunodeficiency virus (HIV) as may be medically appropriate. The court shall take actions to ensure the confidentiality of evidence introduced at the hearing.</p> <p>(c) This subsection applies only to a defendant who has been charged with an offense involving the transmission of a bodily fluid. At the request of an alleged victim of the offense, the parent, guardian, or custodian of an alleged victim who is less than eighteen (18) years of age, or the parent, guardian, or custodian of an alleged victim who is an endangered adult (as defined in IC 12-10-3-2), the prosecuting attorney shall petition a court to order a defendant charged with the commission of an offense involving the transmission of a bodily fluid to submit to a screening test to determine whether the defendant is infected with a dangerous disease. In the petition, the prosecuting attorney must set forth information demonstrating that:</p> <p>(1) the defendant has committed an offense; and</p>

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	<p>(2) a bodily fluid was transmitted from the defendant to the victim in connection with the commission of the offense.</p> <p>The court shall set the matter for hearing not later than forty-eight (48) hours after the prosecuting attorney files a petition under this subsection. The alleged victim of the offense, the parent, guardian, or custodian of an alleged victim who is less than eighteen (18) years of age, and the parent, guardian, or custodian of an alleged victim who is an endangered adult (as defined in IC 12-10-3-2) are entitled to receive notice of the hearing and are entitled to attend the hearing. The defendant and the defendant's counsel are entitled to receive notice of the hearing and are entitled to attend the hearing. If, following the hearing, the court finds probable cause to believe that the defendant has committed an offense and that a bodily fluid was transmitted from the defendant to the alleged victim in connection with the commission of the offense, the court may order the defendant to submit to a screening test for one (1) or more dangerous diseases. If the defendant is charged with committing battery by body waste (IC 35-42-2-6), the court may limit testing under this subsection to a test only for human immunodeficiency virus (HIV). However, the court may order additional testing for human immunodeficiency virus (HIV) as may be medically appropriate. The court shall take actions to ensure the confidentiality of evidence introduced at the hearing.</p> <p>(d) The testimonial privileges applying to communication between a husband and wife and between a health care provider and the health care provider's patient are not sufficient grounds for not testifying or providing other information at a hearing conducted in accordance with this section.</p> <p>(e) A health care provider (as defined in IC 16-18-2-163) who discloses information that must be disclosed to comply with this section is immune from civil and criminal liability under Indiana statutes that protect patient privacy and confidentiality.</p> <p>(f) The results of a screening test conducted under this section shall be kept confidential if the defendant ordered to submit to the screening test under this section has not been convicted of the potentially disease transmitting offense or offense involving the transmission of a bodily fluid with which the defendant is charged. The results may not be made available to any person or public or private agency other than the following:</p> <ol style="list-style-type: none"> (1) The defendant and the defendant's counsel. (2) The prosecuting attorney. (3) The department of correction or the penal facility, juvenile detention facility, or secure private facility where the defendant is housed. (4) The alleged victim or the parent, guardian, or custodian of an alleged victim who is less than eighteen (18) years of age, or the parent, guardian, or custodian of an alleged victim who is an endangered adult (as defined in IC 12-10-3-2), and the alleged victim's counsel. <p>The results of a screening test conducted under this section may not be admitted against a defendant in a criminal proceeding or against a child in a juvenile delinquency proceeding.</p> <p>(g) As soon as practicable after a screening test ordered under this section has been conducted, the alleged victim or the parent, guardian, or custodian of an alleged victim who is less than eighteen (18) years of age,</p>

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	<p>or the parent, guardian, or custodian of an alleged victim who is an endangered adult (as defined in IC 12-10-3-2), and the victim's counsel shall be notified of the results of the test.</p> <p>(h) An alleged victim may disclose the results of a screening test to which a defendant is ordered to submit under this section to an individual or organization to protect the health and safety of or to seek compensation for:</p> <ol style="list-style-type: none"> (1) the alleged victim; (2) the alleged victim's sexual partner; or (3) the alleged victim's family. <p>(i) The court shall order a petition filed and any order entered under this section sealed.</p> <p>(j) A person that knowingly or intentionally:</p> <ol style="list-style-type: none"> (1) receives notification or disclosure of the results of a screening test under this section; and (2) discloses the results of the screening test in violation of this section; commits a Class B misdemeanor.
§ 16-41-12-4	<p>"Confirmatory test" defined</p> <p>As used in this chapter, "confirmatory test" means a laboratory test or a series of tests approved by the state department and used in conjunction with a screening test to confirm or refute the results of the screening test for the human immunodeficiency virus (HIV) antigen or antibodies to the human immunodeficiency virus (HIV).</p>
§ 16-41-12-8	<p>"Screening test" defined</p> <p>As used in this chapter, "screening test" means a laboratory screening test or a series of tests required by the state department to be performed on blood or blood products collected under this chapter, including the following:</p> <ol style="list-style-type: none"> (1) Tests for antibodies to the human immunodeficiency virus (HIV). (2) Other tests determined by the state department.
§ 16-41-12-11	<p>No implied warranty of merchantability for certain services -- Screening test not required -- Use of donated blood for self or other -- Failure to reserve donated blood -- Screening test required for out-of-state blood</p> <p>(a) The:</p> <ol style="list-style-type: none"> (1) Procurement, processing, distribution, or use of whole blood, plasma, blood products, blood derivatives, or other human tissue, such as corneas, bones, or organs, by a bank, storage facility, or hospital; and (2) Injection, transfusion, or transplantation of any of the human tissue listed in subdivision (1) into the human body by a hospital, physician, or surgeon, whether or not any remuneration is paid; <p>is the rendition of a service and not the sale of a product. Such services do not give rise to an implied warranty of merchantability or fitness for a particular purpose, nor do the services give rise to strict liability in tort.</p>

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	<p>(b) A hospital, physician, or other person is not required to perform another screening test on whole blood, plasma, blood products, or blood derivatives that are provided by a blood center if the blood is labeled indicating that the blood has been tested as required under section 13 of this chapter.</p> <p>(c) An autologous blood donor may specify that the donor's blood must be used for the donor. Blood that is donated under this section must be tested for the human immunodeficiency virus (HIV). The blood center shall reserve the donor's blood for the purposes specified by the donor and shall label the blood accordingly.</p> <p>(d) A directed blood donor may specify that the donor's blood is to be used for another person. The blood center shall consider the medical suitability and the wishes of the donor and recipient in making final distribution of the blood.</p> <p>(e) The blood center is subject to penalties under this chapter if the blood center knowingly fails to reserve the blood for the purposes specified by the recipient under this section or if the blood center fails to comply with subsections (c) through (d).</p> <p>(f) A blood center located outside Indiana may not distribute:</p> <ol style="list-style-type: none"> (1) Blood; (2) Plasma; (3) A blood product; or (4) A blood derivative; <p>in Indiana unless the blood center has certified to the state department that the blood has undergone a screening test under this chapter.</p>
§ 16-41-12-13	<p>Screening test on blood -- Labeling -- Confirmatory test -- Failure to conduct screening test -- Penalty</p> <p>(a) A blood center shall perform a screening test on a donor's blood and obtain the results of the test before blood, plasma, a blood product, or a blood derivative is distributed for use.</p> <p>(b) The blood center shall label blood, plasma, a blood product, or a blood derivative before distribution by the blood center to indicate the results of the tests required by this chapter. The blood center shall also label each blood sample according to the regulations of the federal Food and Drug Administration.</p> <p>(c) The blood center shall perform a confirmatory test on a blood donation from a donor when the screening test performed under subsection (a) yields repeatedly reactive results.</p> <p>(d) Except for:</p> <ol style="list-style-type: none"> (1) A sample retained to perform a confirmatory test; or (2) Units used for research purposes or in the production of

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	<p>pharmaceutical products if the blood center has obtained approval from the federal Food and Drug Administration; the blood center shall dispose of a blood donation after an inconclusive or repeatedly reactive screening test has been performed. The disposal must be made under rules adopted by the state department under this chapter and IC 16-41-16.</p> <p>(e) A blood center shall report to the state department the results of each positive confirmatory test conducted under subsection (c).</p> <p>(f) A blood center shall attempt to notify a donor and refer the donor to counseling when the confirmatory test on the donor's blood is inconclusive or indicates the presence of antibodies to the human immunodeficiency virus (HIV).</p> <p>(g) Each health care provider that administers blood transfusions shall keep a record of the following: (1) Blood center that furnished the blood. (2) Unit number assigned to the blood. The records shall be made available to the state department for inspection.</p> <p>(h) An employee who is responsible for conducting the screening test required under this section who knowingly or intentionally fails to conduct the screening test commits a Class A misdemeanor.</p>
§ 16-41-12-15	<p>Provision of information to blood center by blood donor</p> <p>(a) A blood center shall require a blood donor to provide to the blood center the following information: (1) Name. (2) Address. (3) Date of birth.</p> <p>(b) A blood center shall request a blood donor to provide the blood donor's Social Security number.</p> <p>(c) A blood center shall report the name and address of a blood donor to the state department when a confirmatory test of the blood donor's blood confirms the presence of antibodies to the human immunodeficiency virus (HIV).</p> <p>(d) A blood center shall provide to a blood donor information to enable the blood donor to give informed consent to the procedures required by this chapter or IC 16-36. The information required by this subsection must be in the following form:</p> <p>NOTICE</p> <p>(1) This blood center performs a screening test for the human immunodeficiency virus (HIV) on every donor's blood.</p>

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	<p>(2) This blood center reports to the state department of health the name and address of a blood donor when a confirmatory test of the blood donor's blood confirms the presence of antibodies to the human immunodeficiency virus (HIV).</p> <p>(3) A person who recklessly, knowingly, or intentionally donates, sells, or transfers blood or a blood component that contains antibodies for the human immunodeficiency virus (HIV) commits transferring contaminated blood, a Class C felony. The offense is a Class A felony if the offense results in the transmission of the virus to another person.</p>
§ 16-41-14-5	<p>Testing of semen -- Reporting of information -- Donation before testing</p> <p>(a) Except as provided in subsection (e) and section 7 [IC 16-41-14-7] of this chapter, a practitioner shall test each donor of semen for the following diseases before the donor provides a donation:</p> <ol style="list-style-type: none"> (1) Syphilis. (2) Hepatitis B surface antigen and core antibody. (3) HIV antibody. <p>(b) Except as provided in section 7 of this chapter, a practitioner shall test each recipient initially and at least annually as long as artificial insemination procedures are continuing for the following diseases:</p> <ol style="list-style-type: none"> (1) Syphilis. (2) Hepatitis B surface antigen. (3) HIV antibody. <p>(c) A practitioner shall perform or arrange for a confirmatory test for HIV antibody if the initial screening test for HIV antibody yields positive results.</p> <p>(d) The practitioner shall report the information required under IC 16-41-2 when a test performed under subsection (c) confirms the presence of a disease required to be reported to the state department.</p> <p>(e) If a practitioner states in writing that a person has a disease or will soon undergo medical treatment that may damage the person's:</p> <ol style="list-style-type: none"> (1) ability to donate semen; or (2) semen; <p>the practitioner shall allow the person to donate semen before performing the tests required under subsection (a).</p>
§ 16-41-14-7	<p>Conditions for use of donation of semen</p> <p>(a) Except as provided in subsection (b), a practitioner may not use a donation of semen until the following conditions are met:</p> <ol style="list-style-type: none"> (1) The specimen has been frozen and quarantined for at least one hundred eighty (180) days. (2) The donor is retested after one hundred eighty (180) days for the

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	<p>HIV antibody.</p> <p>(b) If the recipient indicates that the donor is in a mutually monogamous relationship with the recipient, the practitioner:</p> <p>(1) Shall perform the HIV test required under this chapter for the donor at least annually as long as artificial insemination procedures are continuing; and</p> <p>(2) May not perform artificial insemination unless the tests for HIV antibody performed under this chapter produce negative results.</p>
§ 16-41-14-8	<p>Disposal of donations of semen</p> <p>A practitioner shall dispose of a donation of semen after a confirmatory test indicates the presence of the HIV antibody. The disposal must be made according to the rules concerning the disposal of infectious waste.</p>
§ 16-41-14-10	<p>Referral of donor to counseling</p> <p>A practitioner shall refer a donor or recipient to appropriate counseling if a confirmatory test indicates the presence of the HIV antibody</p>
§ 16-41-14-13	<p>Information to be provided to semen donor</p> <p>A practitioner shall provide information to a semen donor to enable the semen donor to give informed consent to the procedures required by this chapter. The information required by this section must be in the following form:</p> <p>NOTICE</p> <p>(1) This facility performs a screening test for the human immunodeficiency virus (HIV) on every donor's blood.</p> <p>(2) This facility reports to the state department of health the name and address of a semen donor or recipient when a confirmatory test of the semen donor's blood or the recipient's blood confirms the presence of antibodies to the human immunodeficiency virus (HIV).</p> <p>(3) A person who, for the purpose of artificial insemination, recklessly, knowingly, or intentionally donates, sells, or transfers semen that contains antibodies for the human immunodeficiency virus (HIV) commits transferring contaminated semen, a Class C felony. The offense is a Class A felony if the offense results in the transmission of the virus to another person.</p>
§16-41-14-16	<p>Failure to Conduct Test; Penalty</p> <p>A practitioner who:</p> <p>(1) is responsible for conducting a screening required under this chapter; and</p>

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	(2) knowingly or intentionally fails to conduct screening test; commits a Class A misdemeanor.
§ 16-41-14-17	Sale or transfer of semen containing HIV antibodies unlawful except for research purposes -- Penalty (a) This section does not apply to a person who transfers for research purposes semen that contains antibodies for the human immunodeficiency virus (HIV). (b) A person who, for the purpose of artificial insemination, recklessly, knowingly, or intentionally donates, sells, or transfers semen that contains antibodies for the human immunodeficiency virus (HIV) commits transferring contaminated semen, a Class C felony. The offense is a Class A felony if the offense results in the transmission of the virus to another person.

Title 31: Family Law and Juvenile Law
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IN Title 31 Code §	Code Language
§ 31-11-4-5	<p>Information concerning sexually transmitted diseases</p> <p>(a) The clerk of the circuit court shall distribute to marriage license applicants written information or videotaped information approved by the AIDS advisory council of the state department of health concerning dangerous communicable diseases that are sexually transmitted.</p> <p>(b) Written information and videotaped information distributed by each clerk of the circuit court under subsection (a) must provide current information on human immunodeficiency virus (HIV) infection and other dangerous communicable diseases that are sexually transmitted. The information must include an explanation of the following:</p> <ol style="list-style-type: none"> (1) The etiology of dangerous communicable diseases that are sexually transmitted. (2) The behaviors that create a high risk of transmission of such diseases. (3) Precautionary measures that reduce the risk of contracting such diseases. (4) The necessity for consulting medical specialists if infection is suspected. <p>(c) At the time of application for a marriage license, each clerk of the circuit court shall:</p> <ol style="list-style-type: none"> (1) provide the marriage license applicants with written information furnished under subsection (a) concerning dangerous communicable diseases that are sexually transmitted; or (2) show the marriage license applicants videotaped information furnished under subsection (a) concerning dangerous communicable diseases that are sexually transmitted. <p>(d) In addition to the information provided to marriage license applicants under subsection (c), each clerk of the circuit court shall inform each marriage license applicant that the applicant may be tested on a voluntary basis for human immunodeficiency virus (HIV) infection by the applicant's private physician or at another testing site. The clerk shall provide the marriage applicants with a list of testing sites in the community.</p> <p>(e) An applicant who objects to the written information or videotaped information on religious grounds is not required to receive the information.</p> <p>(f) If materials required by this section are not prepared by other sources, the state department of health shall prepare the materials.</p> <p>(g) The provider of the materials is responsible for all costs involved in the development, preparation, and distribution of the information required by this section. Except for the materials developed by the state, the state and county are not liable for the costs of materials used to implement this section and section 4 [IC 31-11-4-4] of this chapter.</p>

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§ 31-37-19-12	<p>Crimes involving risk of transmission of HIV -- Testing -- Notification of positive results -- Counseling for victims</p> <p>(a) This section applies if a child is a delinquent child under IC 31-37-1 due to the commission of a delinquent act that, if committed by an adult, would be:</p> <ul style="list-style-type: none"> (1) an offense relating to a criminal sexual act (as defined in IC 35-41-1-19.3) and the offense created an epidemiologically demonstrated risk of transmission of the human immunodeficiency virus (HIV); or (2) an offense relating to controlled substances (as defined in IC 35-41-1-19.4) if the offense involved: <ul style="list-style-type: none"> (A) the delivery by a person to another person; or (B) the use by a person on another person; <p>of a contaminated sharp (as defined in IC 16-41-16-2) or other paraphernalia that creates an epidemiologically demonstrated risk of transmission of HIV by involving percutaneous contact.</p> <p>(b) The juvenile court shall, in addition to any other order or decree the court makes under this chapter, order the child to undergo a screening test for the human immunodeficiency virus (HIV).</p> <p>(c) If the screening test indicates the presence of antibodies to HIV, the court shall order the child to undergo a confirmatory test.</p> <p>(d) If the confirmatory test confirms the presence of the HIV antibodies, the court shall report the results to the state department of health.</p> <p>(e) The state department of health shall do the following:</p> <ul style="list-style-type: none"> (1) Notify potentially affected victims of the offense relating to a criminal sexual act (as defined in IC 35-41-1-19.3) or offense relating to controlled substances (as defined in IC 35-41-1-19.4) of the HIV screening results. (2) Provide counseling regarding HIV and a referral for appropriate health care to the victims.

Title 35: Criminal Law and Procedure

IN Title 35 Code §	Code Language
§35-38-1-10.5	<p>Screening and confirmatory tests for HIV -- Presentence investigation -- Waiver of husband-wife privilege -- Immunity from liability</p> <p>(a) The court:</p> <p>(1) shall order that a person undergo a screening test for the human immunodeficiency virus (HIV) if the person is:</p> <p>(A) convicted of an offense relating to a criminal sexual act and the offense created an epidemiologically demonstrated risk of transmission of the human immunodeficiency virus (HIV); or</p> <p>(B) convicted of an offense related to controlled substances and the offense involved:</p> <p>(i) the delivery by any person to another person; or</p> <p>(ii) the use by any person on another person of a contaminated sharp (as defined in IC 16-41-16-2) or other paraphernalia that creates an epidemiologically demonstrated risk of transmission of HIV by involving percutaneous contact; and</p> <p>(2) may order that a person undergo a screening test for a dangerous disease (as defined in IC 16-41-8-5) in accordance with IC 16-41-8-5..</p> <p>(b) If the screening test required by this section indicates the presence of antibodies to HIV, the court shall order the person to undergo a confirmatory test.</p> <p>(c) If the confirmatory test confirms the presence of the HIV antibodies, the court shall report the results to the state department of health and require a probation officer to conduct a presentence investigation to:</p> <p>(1) obtain the medical record of the convicted person from the state department of health under IC 16-41-8-1(a)(3); and</p> <p>(2) determine whether the convicted person had received risk counseling that included information on the behavior that facilitates the transmission of HIV.</p> <p>(d) A person who, in good faith:</p> <p>(1) makes a report required to be made under this section; or</p> <p>(2) testifies in a judicial proceeding on matters arising from the report; is immune from both civil and criminal liability due to the offering of that report or testimony.</p> <p>(e) The privileged communication between a husband and wife or between a health care provider and the health care provider's patient is not a ground for excluding information required under this section.</p> <p>(f) A mental health service provider (as defined in IC 34-6-2-80) who discloses information that must be disclosed to comply with this section is immune from civil and criminal liability under Indiana statutes that protect patient privacy and confidentiality.</p>
§35-38-1-10.6	Notification to victims that criminal carried HIV

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	<p>(a) The state department of health shall notify victims of an offense relating to a criminal sexual act or an offense relating to controlled substances if tests conducted under section 10.5 of this chapter or IC 16-41-8-5 confirm that the person tested had antibodies for the human immunodeficiency virus (HIV).</p> <p>(b) The state department of health shall provide counseling to persons notified under this section.</p>
§35-38-1-10.7	<p>Testing defendant for HIV</p> <p>(a) Upon:</p> <ol style="list-style-type: none"> (1) written request made to a prosecuting attorney by an alleged victim of an offense relating to a criminal sexual act; and (2) after a hearing held under this section, a court entering a finding that there is probable cause to believe the alleged victim is a victim of an offense relating to a criminal sexual act that was committed by the defendant; <p>the court may order an individual named as defendant in the prosecution of the offense to undergo a screening test for human immunodeficiency virus (HIV).</p> <p>(b) Before issuing an order for testing under subsection (a), the court shall conduct a hearing at which both the alleged victim and the defendant have the right to be present. Both the alleged victim and the defendant must be notified of:</p> <ol style="list-style-type: none"> (1) the date, time, and location of the hearing; and (2) their right to be present at the hearing. <p>(c) During the hearing only affidavits, counteraffidavits, and medical records that relate to the material facts of the case used to support or rebut a finding of probable cause to believe the alleged victim was exposed to human immunodeficiency virus (HIV) as a result of the alleged offense relating to a criminal sexual act may be admissible.</p> <p>(d) The written request of the alleged victim made under subsection (a) must be filed by the prosecuting attorney with the court and sealed by a court.</p> <p>(e) The requirements of section 10.5 [IC 35-38-1-10.5] of this chapter apply to testing ordered by a court under this section.</p> <p>(f) If the defendant has not been convicted, the results of a test conducted under this section shall be kept confidential. The results may not be made available to any person or public or private agency other than the following:</p> <ol style="list-style-type: none"> (1) The defendant and the defendant's counsel. (2) The prosecuting attorney. (3) The department of correction. (4) The victim and the victim's counsel.

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	<p>(g) A victim may disclose the results of a test to an individual or organization to protect the health and safety of or to seek compensation for:</p> <ul style="list-style-type: none"> (1) the victim; (2) the victim's sexual partner; or (3) the victim's family. <p>(h) A person that knowingly or intentionally:</p> <ul style="list-style-type: none"> (1) receives notification or disclosure of the results of a test under this section; and (2) discloses the results of the test in violation of this section; commits a Class B misdemeanor.
§ 35-38-2-2.3	<p>Conditions of probation -- Intermittent term of imprisonment -- Court supervision</p> <p>(a) As a condition of probation, the court may require a person to do a combination of the following:</p> <p>(16) Undergo a laboratory test or series of tests approved by the state department of health to detect and confirm the presence of the human immunodeficiency virus (HIV) antigen or antibodies to the human immunodeficiency virus (HIV), if:</p> <ul style="list-style-type: none"> (A) the person had been convicted of an offense relating to a criminal sexual act and the offense created an epidemiologically demonstrated risk of transmission of the human immunodeficiency virus (HIV); or (B) the person had been convicted of an offense relating to a controlled substance and the offense involved: <ul style="list-style-type: none"> (i) the delivery by any person to another person; or (ii) the use by any person on another person; of a contaminated sharp (as defined in IC 16-41-16-2) or other paraphernalia that creates an epidemiologically demonstrated risk of transmission of HIV by involving percutaneous contact.
§ 35-42-1-8	<p>Restrictions on sale or distribution of HIV testing kits for home use -- Penalties</p> <p>(a) The sale or distribution of:</p> <ul style="list-style-type: none"> (1) Diagnostic testing equipment or apparatus; or (2) A blood collection kit; intended for home use to diagnose or confirm human immunodeficiency virus (HIV) infection or disease is prohibited unless the testing equipment, apparatus, or kit has been approved for such use by the federal Food and Drug Administration. <p>(b) A person who violates this section commits a Class A misdemeanor.</p>

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§35-41-1-19.3	<p>"Offense relating to a criminal sexual act" means the following:</p> <ol style="list-style-type: none"> (1) Rape (IC 35-42-4-1). (2) Criminal deviate conduct (IC 35-42-4-2). (3) Child molesting (IC 35-42-4-3). (4) Child seduction (IC 35-42-4-7). (5) Prostitution (IC 35-45-4-2). (6) Patronizing a prostitute (IC 35-45-4-3). (7) Incest (IC 35-46-1-3). (8) Sexual misconduct with a minor under IC 35-42-4-9(a).
§35-41-1-19.4	<p>"Offense relating to controlled substances" means the following:</p> <ol style="list-style-type: none"> (1) Dealing in or manufacturing cocaine or a narcotic drug (IC 35-48-4-1). (2) Dealing in methamphetamine (IC 35-48-4-1.1). (3) Dealing in a schedule I, II or III controlled substance (IC 35-48-4-2). (4) Dealing in a schedule IV controlled substance (IC 35-48-4-3). (5) Dealing in a schedule V controlled substance (IC 35-48-4-4). (6) Possession of cocaine or a narcotic drug (IC 35-48-4-6). (7) Possession of methamphetamine (IC 35-48-4-6.1). (8) Possession of a controlled substance (IC 35-48-4-7). (9) Possession of paraphernalia (IC 35-48-4-8.5). (10) Dealing in paraphernalia (IC 35-48-4-8.5). (11) Offenses relating to registration (IC 35-48-4-14).

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Title 410 IAC	Code Language
410 IAC 1-2.3-48	<p>Laboratories; reporting requirements</p> <p>Sec. 48. (a) Each director, or the director's representative, of a medical laboratory in which examination of any specimen derived from the human body yields microscopic, bacteriologic, immunologic, serologic, or other evidence of infection by any of the organisms or agents listed in subsection (d) shall report such findings and any other epidemiologically necessary information requested by the department. HIV serologic results of tests performed anonymously in conjunction with the operation of a counseling and testing site registered with the department shall not be identified by name of patient, but by a numeric identifier code; for appropriate method to report such results, see subsection (b).</p> <p>(b) The report required by subsection (a) shall, at a minimum, include the following:</p> <ol style="list-style-type: none"> (1) Name, date, results of test performed, the laboratory's normal limits for that test, and the laboratory's interpretation of the test results. (2) Name of person and date of birth or age from whom specimen was obtained. (3) Name, address, and telephone number of attending physician, hospital, clinic, or other specimen submitter. (4) Name, address, and telephone number of the laboratory performing the test. <p>(c) This subsection does not preclude laboratories from testing specimens, which, when submitted to the laboratory, are identified by a numeric identifier code and not by name of patient. If testing of such a specimen, identified by numeric code, produces results that are required to be reported under this rule, the laboratory shall submit a report that includes the following:</p> <ol style="list-style-type: none"> (1) Numeric identifier code, date, and results of tests performed. (2) Name and address of attending physician, hospital, clinic, or other. (3) Name and address of the laboratory performing the test.
410 IAC 1-2.3-76	<p>Human immunodeficiency virus infection/disease; specific control measures</p> <p>Sec. 76. The specific control measures for HIV are as follows:</p> <p>(1) An investigation shall be performed by trained public health disease intervention specialists who shall conduct any contact tracing. Persons who are tested anonymously at a counseling and testing sites cannot be reported using personal identifiers; rather, they are to be reported using a numeric identifier code. Age, race, sex, risk factors, and county of residence shall also be reported. HIV infected persons are required to warn contacts of their disease status and the need to seek health care, such as counseling and testing. All identified contacts should receive counseling and be offered serologic testing. Until their status with regard to infection has been determined, contacts shall refrain from sexual activities involving</p>

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	<p>the exchange of body fluids. All contacts shall not share needles and syringes with other persons without first notifying the other persons of their disease status.</p> <p>(2) Standard precautions shall be used in hospitalized patients. Universal precautions shall be used for all other medical settings. Infected persons shall not:</p> <p>(A) engage in sexual activities involving exchange of body fluids without first informing their partner of their disease status;</p> <p>(B) share needles or syringes with other persons without first notifying the other persons of their disease status; or</p> <p>(C) donate blood, plasma, organs for transplantation, or semen for artificial insemination.</p> <p>(3) Concurrent disinfection is required for equipment and articles contaminated by blood or other potentially infectious material.</p> <p>(4) Quarantine is not required.</p> <p>(5) An investigation of HIV positive women, perinatally exposed infant and pediatric HIV cases will be performed by HIV surveillance and disease intervention specialist staff members, who will obtain information epidemiologically necessary to Indiana Administrative Code Page 34 protect the life of named parties.</p>
410 IAC 1-6-4	<p>Human immunodeficiency virus information and counseling to a pregnant patient</p> <p>Sec. 4. (a) The prenatal care provider primarily responsible for providing prenatal care to a pregnant patient shall offer human immunodeficiency virus (HIV) information and counseling to the pregnant patient. The information and counseling must include the following:</p> <p>(1) A description of the methods of human immunodeficiency virus (HIV) transmission.</p> <p>(2) A discussion of risk reduction behavior modifications, including methods to reduce the risk of perinatal transmission.</p> <p>(3) Referral information to other human immunodeficiency virus (HIV) prevention and psychosocial services, if appropriate, including anonymous and confidential test sites approved by the state department.</p> <p>(b) A group practice, clinic, or hospital shall designate, in writing, a health care professional to implement this rule.</p>
410 IAC 1-6-6	<p>Human immunodeficiency virus test</p> <p>Sec. 6. (a) In offering an [<i>sic., a</i>] human immunodeficiency virus (HIV) test under section 5 of this rule, the prenatal care provider shall discuss the following with the pregnant patient:</p> <p>(1) The purpose of the human immunodeficiency virus (HIV) test.</p> <p>(2) The risk and benefits of the human immunodeficiency virus (HIV)</p>

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	<p>test.</p> <p>(3) The voluntary nature of the human immunodeficiency virus (HIV) test.</p> <p>(b) If the pregnant patient voluntarily consents to human immunodeficiency virus (HIV) testing, the prenatal care provider shall arrange for human immunodeficiency virus (HIV) testing directly or by referral, including referral to anonymous and confidential test sites approved by the department.</p>
410 IAC 1-7-7	<p>Provider's responsibilities to pregnant women who have been tested for HIV</p> <p>Sec. 7. (a) A provider, or his or her designee, must do the following:</p> <ol style="list-style-type: none"> (1) Deliver the test results for HIV infected and HIV uninfected patients in a direct, straightforward, and confidential manner. (2) Deliver the results at the earliest possible encounter after testing. (3) Deliver the results face-to-face for HIV infected patients. <p>(b) If the test results positive, the treating provider, or his or her designee, must do the following:</p> <ol style="list-style-type: none"> (1) Explain the side effects of any treatment for HIV in a direct, straightforward, confidential manner. (2) Discuss pros and cons of initiation of drug therapy. (3) Discuss treatment recommendations based on the U.S. Public Health Service Task Force recommendation for use of antiretroviral drugs in pregnant HIV-1-infected women for maternal health and interventions to reduce perinatal HIV-1 transmission in the United States, MMWR 51, RR-18.
410 IAC 1-7-10	<p>Information to the pregnant woman</p> <p>Sec. 10. (a) A provider, or his or her designee, shall provide the following to pregnant women at the appropriate times, which could include before delivery, at delivery, and after delivery:</p> <ol style="list-style-type: none"> (1) An explanation of the nature of AIDS and HIV which: <ol style="list-style-type: none"> (A) is consistent with MMWR 41, RR-17, and MMWR 43, RR12; and (B) includes the following elements: <ol style="list-style-type: none"> (i) HIV results in a defect in cell-mediated immune response causing increased susceptibility to opportunistic infections and certain rare cancers. (ii) HIV is a virus that is transmitted from one (1) person to another through blood, semen, vaginal secretions, or breast milk. (iii) HIV is a virus that, without treatment, aggressively destroys the immune system. (iv) AIDS is a severe immunological disorder that can result from HIV. (2) Information that it is unlawful to discriminate against persons living with HIV in areas of employment, housing, and provision of health care services. If the women believe that they have been discriminated against, they may contact the Indiana civil rights commission. (3) Information that women who have tested positive for HIV or who

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	<p>have been diagnosed with AIDS are not to engage in high-risk activity (including sexual or needle-sharing contact, which has been demonstrated to transmit a dangerous communicable disease) without warning past, present, or future sexual or needle-sharing partners before engaging in that high-risk activity. Carriers who know of their status as a carrier of HIV or AIDS have a duty to warn or cause to be warned by a third party a person at risk, including a spouse of the last ten (10) years, of the following:</p> <ul style="list-style-type: none"> (A) The carrier's disease status. (B) The need to seek health care, such as counseling and testing. (4) Information about risk behaviors for HIV transmission that is consistent with MMWR 50, RR19. It must include the following: <ul style="list-style-type: none"> (A) High-risk activities refer to sexual or needle-sharing contact, which has been demonstrated to transmit HIV. (B) HIV is known to be transmitted through blood, semen, vaginal secretions, and breast milk. (5) Information about the risk of transmission through breastfeeding that is consistent with MMWR 50, RR19, including that breastfeeding by an HIV positive woman carries a risk for transmission of the virus from mother to infant. <p>(b) The department will continue to be a resource for educational information and referral sources.</p>