



Indiana HIV Criminal Law Reform Amendment: Modernizing Indiana Law. Updated Science. Protecting Officers. *Body Fluid/Waste Statutes – 2026 Legislative Ask*

Purpose

Updates Indiana’s criminal code to align with HIV transmission science while ensuring fair penalties, along with continued protections for Public Safety Officials.

Current Law

[IC 35-42-2-1](#) (*Battery by Bodily Fluid/Waste*) and [IC 35-45-16-2](#) (*Malicious Mischief by Bodily fluid/Waste*) add HIV-specific penalty enhancements, enacted in 1995–2002, for actions such as spitting or saliva contact that pose no risk of HIV transmission.

Proposed Changes: Sample Text pg. 2

- Remove HIV-specific penalties where no HIV transmission risk exists.
- Keep current misdemeanor penalties for civilians — apply equally to people living with HIV.
- Keep felony enhancements if the victim is a PSO — apply equally to people living with HIV.

Rationale

- There is no risk of HIV transmission through saliva, urine, feces, or blood outside the body.
- Science-based laws reduce unnecessary fear for Public Safety Officials during encounters.
- Ensures penalty fairness and efficient use of criminal justice resources.
- Aligns with Indiana’s plan to end the HIV epidemic by ensuring laws reflect current HIV science.

Key Data for the Battery by Bodily Fluid/Waste Code (Indiana, 2012–2023)*

Category	Finding
People living with HIV in Indiana (2024)	14,749
Cases involving the HIV enhancement charge.	41
Cases involving saliva (82%) or urine (3%) (no transmission risk)	85%
Cases involving smearing, flinging, & spitting blood (no transmission risk)	15%
Cases that alleged HIV transmission	0

Source: IU/UCLA Williams Institute Study, 2025 ([Link to Report](#)) *Malicious Mischief rarely used.
<https://williamsinstitute.law.ucla.edu/wp-content/uploads/HIV-Criminalization-IN-Fluids-Jan-2025.pdf>

Support

- 2022 Indiana General Assembly Study Committee (Link to [news report](#)).
- IPAC: Indiana Prosecuting Attorneys Association
- PDC: Indiana Public Defender Council
- ISMA: Indiana State Medical Association (Link to [HIV](#) & [Hepatitis](#) Resolutions)
- IPHCA: Indiana Primary Health Care Association
- IMHC: Indiana Minority Health Coalition
- IDR: Indiana Disability Rights ([Link to Statement](#))
- Indiana House Chamber (e.g., [HB1198-2023](#) passed 78 to 19)
- APA: Association of Prosecuting Attorneys ([Link to Pending White Paper](#))
- NACDL: National Association of Criminal Defense Lawyers ([Link: Resolution](#))

Sample Language:

[IC 35-42-2-1](#) Battery by Bodily Fluid/Waste



(c) ...a person who knowingly or intentionally: (1) touches another person... or (2) in a rude, insolent, or angry manner places any bodily fluid or waste on another person; commits battery, a Class B misdemeanor. ... (e) The offense described in subsection (c)(1) or (c)(2) is a Level 6 felony if one (1) or more of the following apply: ... (2) The offense is committed against a public safety official while the official is engaged in the official's official duty, unless the offense is committed by a person detained or committed under IC 12-26... (f) The offense described in subsection (c)(2) is a Level 6 felony if the person knew or recklessly failed to know that the bodily fluid or waste placed on another person was infected with hepatitis, **or** tuberculosis; ~~or human immunodeficiency virus.~~

(h) The offense described in subsection (c)(2) is a Level 5 felony if: (1) the person knew, or recklessly failed to know, that the bodily fluid or waste placed on another person: **(A) was infected with hepatitis, or tuberculosis, or human immunodeficiency virus; or (B) was blood (as defined in [IC 16-41-12-2.5](#)) that was infected with the human immunodeficiency virus (HIV), and the placement of the blood created a substantial risk of HIV transmission;** and (2) the person placed the bodily fluid or waste on a public safety official, unless the offense is committed by a person detained or committed under IC 12-26.

[IC 35-45-16-2](#) Malicious Mischief by Body Fluid/Waste HIV Sections: Remove HIV

c) A person who recklessly, knowingly, or intentionally places human: (1) body fluid; or (2) fecal waste; in a location with the intent that another person will involuntarily touch the body fluid or fecal waste commits malicious mischief, a Class B misdemeanor. (d) An offense described in subsection (c) is a: (1) Level 6 felony if the person knew or recklessly failed to know that the body fluid or fecal waste was infected with: (A) infectious hepatitis; ~~(B) HIV;~~ or ~~(C) (B)~~ tuberculosis; (2) Level 5 felony if: (A) the person knew or recklessly failed to know that the body fluid or fecal waste was infected with infectious hepatitis [or (B) tuberculosis TB] and the offense results in the transmission of infectious hepatitis [or TB] to the other person; and ~~(3) Level 4 felony if: (A) the person knew or recklessly failed to know that the body fluid or fecal waste was infected with HIV; and (B) the offense results in the transmission of HIV to the other person.~~

References

- [CDC How HIV Spreads](#) 
- CHLP, APA. [Fact Sheet for Law Enforcement Professionals: Spit does Not Transmit](#) 
- UCLA Williams Institute. [HIV Criminalization in Indiana: Evaluation of Transmission Risk](#) – See pages 16-18 for Body Fluid/Waste Exposure Laws.
- UCLA Williams Institute. [Enforcement of HIV Criminalization in Indiana: Body Fluid/Waste Enhancement Laws](#). See especially executive summary and pages 13-14 on transmission risk 