

# Indiana Code Duplication and Penalty Discrepancy; Proposed Solution

## 2025 SESSION

- [HB 1457 \(S\) Health and Provider Committee Amendment # 9](#) repealed IC 16-41-14-17.
- Adopted in Committee but amended out in appropriations as “*Not germane to the bill*”.

## RELEVANT CODES: [IC 16-41-14-17](#) and [IC 35-45-21-1](#)

These make it a felony for people who know they have HIV to attempt to donate, sell or transfer their semen for the purpose of artificial insemination, with penalty enhancement if HIV transmission occurs.

## PROBLEM:

- (1) Felony section in Title 16 duplicates the Title 35 section – the appropriate place is Title 35.
- (2) A discrepancy exists for the penalty enhancement in these two codes – in Title 16, it is an F4; in Title 35, it is an F3.<sup>i</sup>

## SOLUTION: Repeal IC16-41-14-17 to correct the Indiana Code.

- (1) Makes no substantive change; only removes a duplicate section. Title 35 is unchanged.
- (2) Resolves the penalty discrepancy by repealing the section in Title 16.
- (3) No court cases exist under Title 16 section; nor has anyone ever been charged for the “semen for artificial insemination” portion in the criminal section.

## WHAT CHANGES

### **IC 16-41-14-17 Donation, sale, or transfer of HIV infected semen; penalties Enacted 1989**

~~—Sec. 17. (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 Level 5 felony. The offense is a Level 4 felony if the offense results in the transmission of the virus to another person.~~

## WHAT STAYS THE SAME [NO CHANGES – the red duplicate portion remains unchanged]

### **IC 35-45-21-1 Transferring contaminated body fluids Enacted 1988.**

Sec. 1. (a) As used in this section, “blood” has the meaning set forth in [IC 16-41-12-2.5](#).

(b) **A person who recklessly, knowingly, or intentionally donates, sells, or transfers blood or semen for artificial insemination (as defined in [IC 16-41-14-2](#)) that contains the human immunodeficiency virus (HIV) commits transferring contaminated body fluids, a Level 5 felony.**

(c) However, the offense under subsection (b) **is a Level 3 felony if it results in the transmission** of the human immunodeficiency virus (HIV) to any person other than the defendant.

(d) This section does not apply to: (1) a person who, for reasons of privacy, donates, sells, or transfers blood at a blood center (as defined in [IC 16-41-12-3](#)) after the person has notified the blood center that the blood must be disposed of and may not be used for any purpose; (2) a person who transfers blood semen, or another body fluid that contains the human immunodeficiency virus (HIV) for research purposes; or (3) a person who is an autologous blood donor for stem cell transplantation.

---

<sup>i</sup> During the major revision of Indiana’s criminal code (HEA 1006-2013) —which added IC 35-45-21-1 as a new statute, effective July 1, 2014—an oversight occurred which resulted in this discrepancy. Before the revision both IC 16-41-14-17 and IC 35-42-1-7, which was replaced by IC35-45-21-1 and contained almost identical wording, provided the same punishments for both the initial act and for if transmission occurred.