FISCAL IMPACT STATEMENT

LS 7135
BILL NUMBER: HB 1182
NOTE PREPARED: Mar 6, 2020
BILL AMENDED: Feb 27, 2020
SUBJECT: HIV, Fatality Reviews, and Syringe Exchange Programs.
FIRST AUTHOR: Rep. Clere
FIRST SPONSOR: Sen. Becker
BILL STATUS: Enrolled
FUNDS AFFECTED: X GENERAL
DEDICATED
FEDERAL
IMPACT: State & Local

Summary of Legislation: This bill has the following provisions:

Definitions: The bill removes acquired immune deficiency syndrome (AIDS) from the statutory definition of "exposure risk disease". It replaces the term "AIDS" with the term "human immunodeficiency virus (HIV)" where appropriate. The bill replaces the term "carrier" with the term "individual with a communicable disease" where appropriate. It replaces the term "danger" with the term "risk" where appropriate. It also replaces the term "spread" with the term "transmission" where appropriate. It replaces the term "HIV antibody" with "human immunodeficiency virus (HIV)" where appropriate.

HIV Prevention: The bill requires the Indiana State Department of Health (ISDH) to specify, in any literature provided to children and young adults concerning HIV, that abstinence is the best way to prevent the transmission of HIV as a result of sexual activity. The bill also specifies that the use of antiretroviral drugs and other medical interventions may lessen the likelihood of transmitting HIV to a child during childbirth. (Current law states that birth by caesarean section may lessen the likelihood of transmitting HIV to a child during childbirth).

Physicians: The bill also provides that a physician or the authorized representative of a physician may not order an HIV test unless the physician or the authorized representative of a physician:
(1) informs the patient of the test orally or in writing;
(2) provides the patient with an explanation of the test orally, in writing, by video, or by a combination of these methods; and
(3) informs the patient orally or in writing of the patient's right to ask questions and to refuse the test.
It requires the information to be communicated to the patient in a language or manner that the patient understands. It also requires a physician or an authorized representative of the physician to inform a patient of the counseling services and treatment options available to the patient if an HIV test indicates that the patient is HIV positive.

The bill requires a patient to be notified of their right to a: (1) hearing; and (2) counsel; in certain situations involving a court ordered HIV test. It provides that the requirement to dispose of semen that contains the HIV antibody does not apply if the semen is used according to safer conception practices endorsed by the federal Centers for Disease Control and Prevention or other generally accepted medical experts.

**Health Care Providers:** The bill also revises the definition of "health care provider". The bill provides that a patient is considered to have consented to:

1. testing for the presence of a dangerous communicable disease of a type that has been epidemiologically demonstrated to be transmittable by an exposure of the kind experienced by the affected health care provider; and
2. the release of testing results to a medical director or an affected physician in the event of an exposure; if the patient is unable to consent to testing or the release of test results due to physical or mental incapacity.

It allows a health care provider or a health care provider's employer to petition a court for an order requiring a patient to provide a blood or bodily fluid specimen in certain instances. It allows a health care provider, a health care provider's employer, or the ISDH to request certain test results when a patient is a witness, bystander, or victim of alleged criminal activity in certain instances. It provides that a health care provider may request a notification concerning exposure to certain communicable diseases in certain instances. It allows a health care provider to designate a physician to receive certain test results following a possible exposure to certain communicable diseases. It also requires a health care provider to be notified of an exposure to certain communicable diseases not later than 48 hours after certain notifications have been issued. The bill also requires a health care provider to be provided with: (1) medically necessary treatment; and (2) counseling; following an exposure to certain communicable diseases.

**Suicide and Overdose Fatality Review Committee:** The bill requires a suicide and overdose fatality review team (SOFR team) to review certain suicide and overdose fatalities. It allows a SOFR team to make recommendations concerning the prevention of suicide and overdose fatalities. It specifies membership, record keeping, and data entry requirements for SOFR teams. The bill also renumbers the article concerning SOFR teams for purposes of conflict resolution.

**Syringe Exchange Program:** The bill requires a syringe exchange program to:

1. provide testing for communicable diseases and provide services or a referral for services if the individual tests positive; and
2. establish a referral process for program participants in need of information or education concerning communicable diseases or health care.

The bill also requires the ISDH to include certain information concerning syringe exchange programs in the report to the General Assembly before November 1, 2020. It extends the expiration date for certain syringe exchange programs from July 1, 2021, to July 1, 2022.

The bill defines certain terms. It makes conforming amendments and technical corrections.

**Effective Date:** July 1, 2020.
**Explanation of State Expenditures: Definitions and HIV Prevention:** The bill may increase workload for the Professional Licensing Agency and Medical Licensing Board to review physicians or physician’s assistants who fail to follow the notification and procedures under the bill. Any increased costs or workload for the PLA should be able to be implemented with no additional appropriations, assuming near customary agency staffing and resource levels.

**Testing for Communicable Diseases:** The bill requires qualified entities operating a syringe exchange program to test for communicable diseases, and if discovered, either provide health care services or a referral for appropriate health care services. It is unknown how many of these entities have already implemented these testing and referral procedures. Increases in testing for communicable diseases for individuals who are eligible for Medicaid could increase state expenditures to meet the federal match requirement under the Medicaid program (the state’s federal medical assistance percentage for FFY 2020 is 34.17%). Additionally, to the extent the bill increases treatments for the Medicaid-eligible population, state expenditures could increase. Total increases in state Medicaid expenditures are indeterminable.

**Needle Exchange Information Reporting:** The bill requires the ISDH to include certain information in the November 2020 report to the General Assembly. Increases in ISDH workload to provide this information is expected to be accomplished within existing resources and funding levels.

**Suicide and Overdose Fatality Review Committee:** The ISDH will have a minimal workload increase when a SOFR team is initiated to receive information on its formation, develop confidentiality agreements for the members to sign, and to approve persons or entities to establish SOFR teams. Additionally, state agencies are required to comply with records requests of SOFR teams, but may charge reasonable fees for duplicating records. These requirements are within the ISDH’s and other state agencies’ routine administrative functions and should be able to be implemented with no additional appropriations, assuming near customary agency staffing and resource levels.

**Health Care Providers:** The provisions allowing a health care provider or employer to petition a court for an order requiring a patient to provide a blood or bodily fluid specimen could increase costs in certain instances. These provisions could also increase testing. Any impact to ISDH or courts is anticipated to be minimal.

**Explanation of State Revenues:**

**Explanation of Local Expenditures: Suicide and Overdose Fatality Review Committee:** The bill will have increased workload and potentially increased administrative costs for a county or a region where a SOFR team is established by the county health officer or a person or entity approved by the ISDH. The SOFR team elects a chairperson who provides or designates a person to provide administrative services. The SOFR is to meet at least quarterly. There are no specific membership requirements and the bill does not provide for compensations for the members of the team.

**Repeal of Expiration:** Additional programs could be continued with the removal of the sunset provision. The state currently has 9 counties that participate in the syringe exchange program which includes approximately 8,500 service providers. Participating counties include Allen, Clark, Fayette, Madison, Marion, Monroe, Scott, Tippecanoe, and Wayne counties.

**Health Care Providers:** The provisions allowing a health care provider or employer to petition a court for an order requiring a patient to provide a blood or bodily fluid specimen could increase costs in certain
instances. These provisions could also increase testing. Any impact to local health departments or courts is anticipated to be minimal.

**Explanation of Local Revenues:**

**State Agencies Affected:** ISDH; Professional Licensing Agency; Medical Licensing Board; Family and Social Services Administration.

**Local Agencies Affected:** Counties and regions with SOFR teams, local health departments (counties) or municipalities with syringe exchange programs.

**Information Sources:**

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