

February 13, 1998

**ENGROSSED
SENATE BILL No. 261**

DIGEST OF SB 261 (Updated February 12, 1998 4:03 pm - DI 77)

Citations Affected: IC 16-41; noncode.

Synopsis: Newborn HIV testing. Provides that a physician may order that a newborn be tested for the human immunodeficiency virus (HIV) or for antibodies to HIV if the physician believes that the test is medically necessary and notifies at least one of the newborn's parents of the test. (Current law requires that a newborn must be tested for other specific disorders.) Provides that the test may be ordered if federal funds are available to pay for the test. Requires the state
(Continued next page)

Effective: July 1, 1998.

**Howard, Miller, Randolph, Breaux,
Ford**

(HOUSE SPONSORS — CRAWFORD, SUMMERS, BUELL, C. BROWN, PORTER)

January 8, 1998, read first time and referred to Committee on Rules and Legislative Procedure.

January 22, 1998, amended, reported favorably; reassigned to Committee on Health and Environmental Affairs.

January 29, 1998, amended, reported favorably — Do Pass.

February 2, 1998, read second time, amended, ordered engrossed. Engrossed.

February 3, 1998, read third time, passed. Yeas 50, nays 0.

HOUSE ACTION

February 10, 1998, read first time and referred to Committee on Public Health.

February 12, 1998, amended, reported — Do Pass.

ES 261—LS 6515/DI 13+



C
O
P
Y

Digest Continued

department of health to apply for federal funds to pay for newborn HIV testing. Provides that a physician, hospital, or medical laboratory required to report: (1) each case of HIV infection to the state department of health, or (2) the results of tests performed on each newborn to the state department of health, may not include the name or any other identifying characteristics of a newborn who tests positively for HIV. Requires the state department of health to adopt rules to do the following: (1) Ensure that the family of each newborn is informed of the results of the tests required to be conducted on each newborn. (2) Require hospitals and physicians to provide education to the families of newborns about the risk of transferring HIV through breastfeeding if the mother is or may be infected with HIV or has antibodies to HIV. Appropriates \$49,999 to the state department of health for newborn HIV testing.

C
o
p
y



February 13, 1998

Second Regular Session 110th General Assembly (1998)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 1997 General Assembly.

ENGROSSED SENATE BILL No. 261

A BILL FOR AN ACT to amend the Indiana Code concerning health and to make an appropriation.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 16-41-2-3 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 3. (a) Each:
3 (1) licensed physician;
4 (2) hospital licensed under IC 16-21; and
5 (3) medical laboratory;
6 shall report to the state department each case of human
7 immunodeficiency virus (HIV) infection, including each confirmed
8 case of acquired immune deficiency syndrome (AIDS). The report must
9 comply with rules adopted by the state department.
10 (b) The records of the state department must indicate, if known:
11 (1) whether the individual had undergone any blood transfusions
12 before being diagnosed as having AIDS or HIV infection;
13 (2) the place the transfusions took place;
14 (3) the blood center that furnished the blood; and
15 (4) any other known risk factors.

ES 261—LS 6515/DI 13+



C
O
P
Y

1 (c) A case report concerning HIV infection that does not involve a
 2 confirmed case of AIDS submitted to the state department under this
 3 section that involves an individual:

4 (1) enrolled in a formal research project for which a written study
 5 protocol has been filed with the state department; **or**

6 (2) who is tested:

7 (A) anonymously at a designated counseling or testing site; ~~or~~

8 ~~(3) who is tested~~ (B) by a health care provider permitted by
 9 rule by the state department to use a number identifier code;

10 **or**

11 **(C) under IC 16-41-17-2(b);**

12 may not include the name or other identifying characteristics of the
 13 individual tested.

14 SECTION 2. IC 16-41-6-1 IS AMENDED TO READ AS
 15 FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 1. (a) Except as
 16 provided in subsection (b), a person may not perform a screening or
 17 confirmatory test for the antibody or antigen to the human
 18 immunodeficiency virus (HIV) without the consent of the individual to
 19 be tested or a representative as authorized under IC 16-36-1. A
 20 physician ordering the test or the physician's authorized representative
 21 shall document whether or not the individual has consented.

22 (b) The test for the antibody or antigen to HIV may be performed if
 23 one (1) of the following conditions exists:

24 (1) If ordered by a physician who has obtained a health care
 25 consent under IC 16-36-1 or an implied consent under emergency
 26 circumstances and the test is medically necessary to diagnose or
 27 treat the patient's condition.

28 (2) Under a court order based on clear and convincing evidence
 29 of a serious and present health threat to others posed by an
 30 individual. A hearing held under this subsection shall be held in
 31 camera at the request of the individual.

32 (3) If the test is done on blood collected or tested anonymously as
 33 part of an epidemiologic survey under IC 16-41-2-3 or
 34 IC 16-41-17-10(a)(5).

35 **(4) Subject to IC 16-41-17-2(c), each newborn may be tested**
 36 **as provided in IC 16-41-17-2(b).**

37 (c) A court may order a person to undergo testing for HIV under
 38 IC 35-38-1-10.5(a) or IC 35-38-2-2.3(a)(16).

39 SECTION 3. IC 16-41-17-2 IS AMENDED TO READ AS
 40 FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 2. (a) Subject to
 41 subsection ~~(b)~~; (c), every infant shall be given examinations at the
 42 earliest feasible time for the detection of the following disorders:



C
O
P
Y

- 1 (1) Phenylketonuria.
 2 (2) Hypothyroidism.
 3 (3) Hemoglobinopathies, including sickle cell anemia.
 4 (4) Galactosemia.
 5 (5) Maple Syrup urine disease.
 6 (6) Homocystinuria.
 7 (7) Inborn errors of metabolism that result in mental retardation
 8 and that are designated by the state department.
- 9 **(b) Subject to subsection (c), a physician who:**
 10 **(1) believes that testing a newborn for the human**
 11 **immunodeficiency virus (HIV) or the antibody or antigen to**
 12 **HIV is medically necessary; and**
 13 **(2) notifies at least one (1) of the newborn's parents of the test;**
 14 **may order a test at the earliest feasible time for an infant in order**
 15 **to detect the human immunodeficiency virus (HIV) or the antibody**
 16 **or antigen to HIV. A test may be ordered under this subsection if**
 17 **funds provided under Section 2625 of the Ryan White CARE**
 18 **Amendments of 1996 (42 U.S.C. 300ff-21 et seq.) are available to**
 19 **pay for the test.**
- 20 ~~(b)~~ (c) If a parent of an infant objects in writing, for reasons
 21 pertaining to religious beliefs only, the infant is exempt from the
 22 examinations required by this chapter.
- 23 SECTION 4. IC 16-41-17-6 IS AMENDED TO READ AS
 24 FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 6. (a) The state
 25 department shall provide forms on which the results of tests performed
 26 on each child for the disorders listed in section 2 of this chapter shall
 27 be reported to the state department by physicians and hospitals. **The**
 28 **confidentiality provisions of IC 16-41-2-3 apply to this section.**
- 29 (b) The state department shall ascertain at least quarterly the extent
 30 of such testing and the findings shall be reported to all hospitals,
 31 physicians, and other groups interested in child welfare.
- 32 SECTION 5. IC 16-41-17-9 IS AMENDED TO READ AS
 33 FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 9. The state department
 34 shall adopt rules under IC 4-22-2 to carry out this chapter, including
 35 rules to ensure the following:
- 36 (1) Proper and timely sample collection and transportation under
 37 section 8 of this chapter.
 38 (2) Quality testing procedures at the laboratories designated under
 39 section 7 of this chapter.
 40 (3) Uniform reporting procedures.
 41 (4) Centralized coordination, tracking, and follow-up.
 42 (5) Appropriate diagnosis and management of affected newborns



1 and counseling and support programs for newborns' families,
2 including requiring hospitals and physicians to provide
3 education to the families of newborns about the risk of
4 transferring HIV through breastfeeding if the mother is or
5 may be infected with HIV or has the antibody or antigen to
6 HIV.

7 (6) Release of the results of tests conducted under section 2 of
8 this chapter to the family of a newborn who is tested.

9 SECTION 6. [EFFECTIVE UPON PASSAGE] The state
10 department of health shall apply for funds under Section 2625 of
11 the Ryan White CARE Amendments of 1996 (42 U.S.C. 300ff-21 et
12 seq.) to pay for all tests conducted under IC 16-41-17-2(b), as
13 amended by this act.

14 SECTION 7. [EFFECTIVE JULY 1, 1998] (a) There is
15 appropriated to the state department of health forty-nine thousand
16 nine hundred and ninety-nine dollars (\$49,999) from the state
17 general fund to pay for tests conducted under IC 16-41-17-2(b), as
18 amended by this act, beginning July 1, 1998, and ending June 30,
19 1999.

20 (b) This SECTION expires July 1, 1999.

21 SECTION 8. An emergency is declared for this act.

C
O
P
Y



SENATE MOTION

Mr. President: I move that Senator R. Young be removed as author of Senate Bill 261 and that Senator Howard be substituted therefor.

R. YOUNG

C
o
p
y



COMMITTEE REPORT

Mr. President: The Senate Committee on Rules and Legislative Procedure, to which was referred Senate Bill 261, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Delete the title and insert the following:

"A BILL FOR AN ACT to amend the Indiana Code concerning health."

Delete everything after the enacting clause and insert the following:

(SEE TEXT OF BILL)

and when so amended that said bill be reassigned to the Senate Committee on Health and Environmental Affairs.

(Reference is to Senate Bill 261 as introduced.)

GARTON, Chairperson

C
O
P
Y



COMMITTEE REPORT

Mr. President: The Senate Committee on Health and Environmental Affairs, to which was referred Senate Bill 261, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 2, double block indent lines 5 through 8.

Page 2, line 8, delete "IC 16-41-17-2(a)(8)" and insert "**IC 16-41-17-2(b)**".

Page 2, line 32, delete "IC 16-41-17-2(b)" and insert "**IC 16-41-17-2(c)**".

Page 2, line 32, delete "must" and insert "**may**".

Page 2, line 33, delete "IC 16-41-17-2(a)" and insert "**IC 16-41-17-2(b)**".

Page 2, line 38, strike "(b)," and insert "(c),".

Page 3, delete lines 6 through 7, begin a new paragraph and insert: "**(b) Subject to subsection (c), a physician may order an examination at the earliest feasible time for an infant in order to detect the human immunodeficiency virus (HIV) or the antibody or antigen to HIV.**".

Page 3, line 8, strike "(b)" and insert "(c)".

and when so amended that said bill do pass.

(Reference is to Senate Bill 261 as printed January 23, 1998.)

MILLER, Chairperson

Committee Vote: Yeas 7, Nays 0.

C
O
P
Y



SENATE MOTION

Mr. President: I move that Senate Bill 261 be amended to read as follows:

Page 3, line 7, after "physician" insert "**who:**

(1) believes that testing a newborn for the human immunodeficiency virus (HIV) or the antibody or antigen to HIV is medically necessary; and

(2) notifies at least one (1) of the newborn's parents of the test;".

Page 3, line 7, before "may" begin a new line blocked left.

Page 3, line 7, delete "an" and insert "**a test**".

Page 3, line 8, delete "examination".

Page 3, line 10, after "." insert "**A test may be ordered under this subsection if funds provided under section 2625 of the Ryan White CARE Amendments of 1996 (42 U.S.C. 300ff-21 et seq.) are available to pay for the test.**".

Page 3, line 34, delete "." and insert ", **including requiring hospitals and physicians to provide education to the families of newborns about the risk of transferring HIV through breastfeeding if the mother is or may be infected with HIV or has the antibody or antigen to HIV.**".

Page 3, after line 36, begin a new paragraph and insert:

"SECTION 6. [EFFECTIVE UPON PASSAGE] The state department of health shall apply for funds under section 2625 of the Ryan White CARE Amendments of 1996 (42 U.S.C. 300ff-21 et seq.) to pay for all tests conducted under IC 16-41-17-2(b), asamended by this act.

SECTION 7. An emergency is declared for this act."

Re-number all SECTIONS consecutively.

(Reference is to Senate Bill 261 as printed January 30, 1998.)

MILLER

 SENATE MOTION

Mr. President: I move that Senator Miller be added as second author of Senate Bill 261.

HOWARD



C
O
P
Y

SENATE MOTION

Mr. President: I move that Senators Randolph, Breaux and Ford be added as coauthors of Senate Bill 261.

HOWARD

C
o
p
y



COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Health, to which was referred Senate Bill 261, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Delete the amendment made on motion of Senator Miller adopted February 2, 1998.

Delete the title and insert the following:

A BILL FOR AN ACT to amend the Indiana Code concerning health and to make an appropriation.

Page 3, line 7, after "physician" insert "**who:**

(1) believes that testing a newborn for the human immunodeficiency virus (HIV) or the antibody or antigen to HIV is medically necessary; and

(2) notifies at least one (1) of the newborn's parents of the test;".

Page 3, line 7, beginning with "may" begin a new line blocked left.

Page 3, line 7, delete "an" and insert "**a test**".

Page 3, line 8, delete "examination".

Page 3, line 10, after "." insert "**A test may be ordered under this subsection if funds provided under Section 2625 of the Ryan White CARE Amendments of 1996 (42 U.S.C. 300ff-21 et seq.) are available to pay for the test.**".

Page 3, line 34, delete "." and insert "**, including requiring hospitals and physicians to provide education to the families of newborns about the risk of transferring HIV through breastfeeding if the mother is or may be infected with HIV or has the antibody or antigen to HIV.**".

Page 3, after line 36, begin a new paragraph and insert:

"SECTION 6. [EFFECTIVE UPON PASSAGE] The state department of health shall apply for funds under Section 2625 of the Ryan White CARE Amendments of 1996 (42 U.S.C. 300ff-21 et seq.) to pay for all tests conducted under IC 16-41-17-2(b), as amended by this act.

SECTION 7. [EFFECTIVE JULY 1, 1998] (a) There is appropriated to the state department of health forty-nine thousand nine hundred and ninety-nine dollars (\$49,999) from the state general fund to pay for tests conducted under IC 16-41-17-2(b), as amended by this act, beginning July 1, 1998, and ending June 30, 1999.

(b) This SECTION expires July 1, 1999.

SECTION 8. An emergency is declared for this act."



C
O
P
Y

Renumber all SECTIONS consecutively.
and when so amended that said bill do pass.

(Reference is to Senate Bill 261 as printed January 30, 1998, and as amended on motion of Senator Miller adopted February 2, 1998.)

C. BROWN, Chair

Committee Vote: yeas 10, nays 2.

C
o
p
y

