

January 30, 1998

SENATE BILL No. 261

DIGEST OF SB 261 (Updated January 29, 1998 8:54 am - DI 88)

Citations Affected: IC 16-41.

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. (Current law requires that a newborn must be tested for other specific disorders.) 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 ensure that the family of each newborn is informed of the results of the tests required to be conducted on each newborn.

Effective: July 1, 1998.

Howard

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.

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January 30, 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.

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SENATE BILL No. 261

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

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.
16 (c) A case report concerning HIV infection that does not involve a
17 confirmed case of AIDS submitted to the state department under this

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- 1 section that involves an individual:
- 2 (1) enrolled in a formal research project for which a written study
- 3 protocol has been filed with the state department; **or**
- 4 (2) who is tested:
- 5 (A) anonymously at a designated counseling or testing site; **or**
- 6 ~~(B) who is tested~~ (B) by a health care provider permitted by
- 7 rule by the state department to use a number identifier code;
- 8 **or**
- 9 (C) **under IC 16-41-17-2(b);**

10 may not include the name or other identifying characteristics of the

11 individual tested.

12 SECTION 2. IC 16-41-6-1 IS AMENDED TO READ AS

13 FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 1. (a) Except as

14 provided in subsection (b), a person may not perform a screening or

15 confirmatory test for the antibody or antigen to the human

16 immunodeficiency virus (HIV) without the consent of the individual to

17 be tested or a representative as authorized under IC 16-36-1. A

18 physician ordering the test or the physician's authorized representative

19 shall document whether or not the individual has consented.

20 (b) The test for the antibody or antigen to HIV may be performed if

21 one (1) of the following conditions exists:

- 22 (1) If ordered by a physician who has obtained a health care
- 23 consent under IC 16-36-1 or an implied consent under emergency
- 24 circumstances and the test is medically necessary to diagnose or
- 25 treat the patient's condition.
- 26 (2) Under a court order based on clear and convincing evidence
- 27 of a serious and present health threat to others posed by an
- 28 individual. A hearing held under this subsection shall be held in
- 29 camera at the request of the individual.
- 30 (3) If the test is done on blood collected or tested anonymously as
- 31 part of an epidemiologic survey under IC 16-41-2-3 or
- 32 IC 16-41-17-10(a)(5).

33 (4) **Subject to IC 16-41-17-2(c), each newborn may be tested**

34 **as provided in IC 16-41-17-2(b).**

35 (c) A court may order a person to undergo testing for HIV under

36 IC 35-38-1-10.5(a) or IC 35-38-2-2.3(a)(16).

37 SECTION 3. IC 16-41-17-2 IS AMENDED TO READ AS

38 FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 2. (a) Subject to

39 subsection ~~(b)~~, (c), every infant shall be given examinations at the

40 earliest feasible time for the detection of the following disorders:

- 41 (1) Phenylketonuria.
- 42 (2) Hypothyroidism.



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1 (3) Hemoglobinopathies, including sickle cell anemia.

2 (4) Galactosemia.

3 (5) Maple Syrup urine disease.

4 (6) Homocystinuria.

5 (7) Inborn errors of metabolism that result in mental retardation
6 and that are designated by the state department.

7 **(b) Subject to subsection (c), a physician may order an**
8 **examination at the earliest feasible time for an infant in order to**
9 **detect the human immunodeficiency virus (HIV) or the antibody**
10 **or antigen to HIV.**

11 ~~(b)~~ (c) If a parent of an infant objects in writing, for reasons
12 pertaining to religious beliefs only, the infant is exempt from the
13 examinations required by this chapter.

14 SECTION 4. IC 16-41-17-6 IS AMENDED TO READ AS
15 FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 6. (a) The state
16 department shall provide forms on which the results of tests performed
17 on each child for the disorders listed in section 2 of this chapter shall
18 be reported to the state department by physicians and hospitals. **The**
19 **confidentiality provisions of IC 16-41-2-3 apply to this section.**

20 (b) The state department shall ascertain at least quarterly the extent
21 of such testing and the findings shall be reported to all hospitals,
22 physicians, and other groups interested in child welfare.

23 SECTION 5. IC 16-41-17-9 IS AMENDED TO READ AS
24 FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 9. The state department
25 shall adopt rules under IC 4-22-2 to carry out this chapter, including
26 rules to ensure the following:

27 (1) Proper and timely sample collection and transportation under
28 section 8 of this chapter.

29 (2) Quality testing procedures at the laboratories designated under
30 section 7 of this chapter.

31 (3) Uniform reporting procedures.

32 (4) Centralized coordination, tracking, and follow-up.

33 (5) Appropriate diagnosis and management of affected newborns
34 and counseling and support programs for newborns' families.

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

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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

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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

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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.

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