

# HOUSE BILL No. 1861

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 16-41-2-3; IC 16-41-6; IC 16-41-17.

**Synopsis:** Mandatory newborn HIV testing. Requires that a newborn be tested for the human immunodeficiency virus (HIV) or for antibodies to HIV. (Current law provides that a newborn may be tested for HIV if the newborn's mother is not tested for HIV, the newborn's mother refuses to allow the newborn to be tested for HIV, and a physician believes that testing the newborn for HIV is medically necessary.) Provides that a physician, hospital, or medical laboratory required to report each case of HIV infection to the state department of health or 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 positive for HIV. Requires the  
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**Effective:** July 1, 1999.

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**Frizzell**

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January 26, 1999, read first time and referred to Committee on Public Health.

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Digest Continued

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. Requires a physician who orders an HIV test for a newborn to provide HIV information and counseling to the newborn's mother.

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Introduced

First Regular Session 111th General Assembly (1999)

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 1998 General Assembly.

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## HOUSE BILL No. 1861

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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, 1999]: 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.



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(a)(8);**

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, 1999]: 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) ~~The test is ordered under section 4 of this chapter.~~ **Subject to**  
 36 **IC 16-41-17-2(b), each newborn must be tested as provided in**  
 37 **IC 16-41-17-2(a)(8).**

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

40 SECTION 3. IC 16-41-17-2 IS AMENDED TO READ AS  
 41 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 2. (a) Subject to  
 42 subsection (b), every infant shall be given examinations at the earliest

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feasible time for the detection of the following disorders:

- (1) Phenylketonuria.
- (2) Hypothyroidism.
- (3) Hemoglobinopathies, including sickle cell anemia.
- (4) Galactosemia.
- (5) Maple Syrup urine disease.
- (6) Homocystinuria.
- (7) Inborn errors of metabolism that result in mental retardation and that are designated by the state department.

**(8) Human immunodeficiency virus (HIV) or the antibody or antigen to HIV.**

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

SECTION 4. IC 16-41-17-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 6. (a) The state department shall provide forms on which the results of tests performed on each child for the disorders listed in section 2 of this chapter shall be reported to the state department by physicians and hospitals.

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

**(c) The confidentiality provisions of IC 16-41-2-3 apply to this section.**

SECTION 5. IC 16-41-17-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 9. The state department shall adopt rules under IC 4-22-2 to carry out this chapter, including rules to ensure the following:

- (1) Proper and timely sample collection and transportation under section 8 of this chapter.
- (2) Quality testing procedures at the laboratories designated under section 7 of this chapter.
- (3) Uniform reporting procedures.
- (4) Centralized coordination, tracking, and follow-up.
- (5) Appropriate diagnosis and management of affected newborns and counseling and support programs for newborns' families.

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

SECTION 6. IC 16-41-17-12 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: **Sec. 12. After performing a test for HIV under section 2(a)(8) of this chapter, the physician who orders**



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1     **the test shall provide human immunodeficiency virus (HIV)**  
2     **information and counseling to the infant's mother. The information**  
3     **and counseling must include the following:**  
4         **(1) The purpose of the test.**  
5         **(2) The risks and benefits of the test.**  
6         **(3) A description of the methods of HIV transmission.**  
7         **(4) A discussion of risk reduction behavior modifications,**  
8         **including methods to reduce the risk of perinatal HIV**  
9         **transmission and HIV transmission through breast milk.**  
10        **(5) Referral information to other HIV prevention, health care,**  
11        **and psychosocial services.**  
12     SECTION 7. IC 16-41-6-4 IS REPEALED [EFFECTIVE JULY 1,  
13     1999].

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