

HOUSE BILL No. 2024

DIGEST OF INTRODUCED BILL

Citations Affected: IC 16-18-2-290.5; IC 16-18-2-337.8; IC 16-41-6.

Synopsis: Mandatory HIV testing of pregnant women. Requires that each pregnant woman be tested for the antibody or antigen to the human immunodeficiency virus (HIV) during pregnancy. Requires a physician who diagnoses a woman's pregnancy to take a blood sample at the time of diagnosis and submit each sample to an approved laboratory for a standard serological test for HIV. Requires a person other than a licensed physician who attends a pregnant woman, but who is not permitted by law to take blood specimens, to cause a sample of the pregnant woman's blood to be taken by a licensed physician, who must then submit the sample to an approved laboratory for an HIV test. Requires that a blood sample for an HIV test be taken from a woman
(Continued next page)

Effective: July 1, 1999.

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January 27, 1999, read first time and referred to Committee on Public Health.

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Digest Continued

at the time of delivery that if the woman was not tested for HIV during her pregnancy. Requires that information pertaining to the woman's HIV testing status be included on each birth certificate or stillborn certificate. Repeals a law pertaining to voluntary HIV testing for pregnant women.

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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. 2024



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 16-18-2-337.8 IS ADDED TO THE INDIANA
2 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
3 [EFFECTIVE JULY 1, 1999]: **Sec. 337.8. "Standard serological test**
4 **for HIV", for purposes of IC 16-41-6, has the meaning set forth in**
5 **IC 16-41-6-0.5.**

6 SECTION 2. IC 16-41-6-0.5 IS ADDED TO THE INDIANA CODE
7 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
8 1, 1999]: **Sec. 0.5. As used in this chapter, "standard serological test**
9 **for HIV" means a test recognized by the state department as a**
10 **standard serological test for the antibody or antigen to the human**
11 **immunodeficiency virus (HIV).**

12 SECTION 3. IC 16-41-6-1 IS AMENDED TO READ AS
13 FOLLOWS [EFFECTIVE JULY 1, 1999]: 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



1 immunodeficiency virus (HIV) without the consent of the individual to
 2 be tested or a representative as authorized under IC 16-36-1. A
 3 physician ordering the test or the physician's authorized representative
 4 shall document whether or not the individual has consented.

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

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

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

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

18 (4) The test is ordered under section 4, **5, 6, or 7** of this chapter.

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

21 SECTION 4. IC 16-41-6-4 IS AMENDED TO READ AS
 22 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 4. (a) Subject to
 23 subsection (e), if

24 ~~(1) the mother of a newborn infant has not had a test performed~~
 25 ~~under IC 16-41-6-2.5;~~

26 ~~(2) the mother of a newborn infant has refused a test for the~~
 27 ~~newborn infant to detect the human immunodeficiency virus~~
 28 ~~(HIV) or the antibody or antigen to HIV; and~~

29 ~~(3) a physician believes that testing the a newborn infant to~~
 30 ~~detect the human immunodeficiency virus (HIV) or the~~
 31 ~~antibody or antigen to HIV is medically necessary,~~

32 the physician may order a confidential test for the newborn infant in
 33 order to detect ~~the human immunodeficiency virus~~ HIV or the antibody
 34 or antigen to HIV. The test must be ordered at the earliest feasible time
 35 not exceeding forty-eight (48) hours after the birth of the infant.

36 (b) If the physician orders a test under subsection (a), the physician
 37 must:

38 (1) notify the mother of the newborn infant of the test; and

39 (2) provide ~~human immunodeficiency virus~~ HIV information and
 40 counseling to the mother. The information and counseling must
 41 include the following:

42 (A) The purpose of the test.

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- 1 (B) The risks and benefits of the test.
 2 (C) A description of the methods of HIV transmission.
 3 (D) A discussion of risk reduction behavior modifications,
 4 including methods to reduce the risk of perinatal HIV
 5 transmission and HIV transmission through breast milk.
 6 (E) Referral information to other HIV prevention, health care,
 7 and psychosocial services.
- 8 (c) The confidentiality provisions of IC 16-41-2-3 apply to this
 9 section.
- 10 (d) The results of the confidential test ordered under subsection (a)
 11 must be released to the mother of the newborn infant.
- 12 (e) If ~~the~~ a parent of the newborn infant objects in writing for
 13 reasons pertaining to religious beliefs, the newborn infant is exempt
 14 from the test under subsection (a).
- 15 (f) The state department shall adopt rules under IC 4-22-2 to carry
 16 out this section.
- 17 SECTION 5. IC 16-41-6-5 IS ADDED TO THE INDIANA CODE
 18 AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JULY
 19 1, 1999]: **Sec. 5. A physician who diagnoses a pregnancy of a
 20 woman shall take or cause to be taken a blood sample at the time
 21 of diagnosis of pregnancy and shall submit each sample to an
 22 approved laboratory for a standard serological test for HIV.**
- 23 SECTION 6. IC 16-41-6-6 IS ADDED TO THE INDIANA CODE
 24 AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JULY
 25 1, 1999]: **Sec. 6. A person other than a physician who is permitted
 26 by law to attend a pregnant woman, but who is not permitted by
 27 law to take blood specimens, shall cause a blood sample of the
 28 pregnant woman to be taken by a licensed physician, who shall
 29 submit the sample to an approved laboratory for a standard
 30 serological test for HIV.**
- 31 SECTION 7. IC 16-41-6-7 IS ADDED TO THE INDIANA CODE
 32 AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JULY
 33 1, 1999]: **Sec. 7. If at the time of delivery positive evidence is not
 34 available to show that a standard serological test for HIV has been
 35 made in accordance with section 5 or 6 of this chapter, the person
 36 in attendance at the delivery shall take or cause to be taken a blood
 37 sample of the woman at the time of the delivery and shall submit
 38 the sample to an approved laboratory for a standard serological
 39 test for HIV.**
- 40 SECTION 8. IC 16-41-6-8 IS ADDED TO THE INDIANA CODE
 41 AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JULY
 42 1, 1999]: **Sec. 8. (a) The state department shall require on each**

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1 **birth certificate and stillbirth certificate, in addition to information**
2 **required on the certificate, the following information:**
3 **(1) Whether a serological test for HIV was made for the**
4 **woman who bore the child.**
5 **(2) If a serological test for HIV was made, the date the blood**
6 **specimen was taken.**
7 **(3) If a serological test for HIV was made, whether the test**
8 **was made during pregnancy or at the time of delivery.**
9 **(4) If a serological test for HIV was not made, the reason why**
10 **the test was not made.**
11 **(b) A person who prepares a birth certificate or a stillbirth**
12 **certificate shall include the information required in subsection (a).**
13 SECTION 9. THE FOLLOWING ARE REPEALED [EFFECTIVE
14 JULY 1, 1999]: IC 16-18-2-290.5; IC 16-41-6-2.5.

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