



February 19, 2010

**ENGROSSED
HOUSE BILL No. 1276**

DIGEST OF HB 1276 (Updated February 16, 2010 11:28 am - DI 106)

Citations Affected: IC 16-41; IC 33-24; noncode.

Synopsis: HIV testing and judicial technology. Provides an exception to the human immunodeficiency virus (HIV) testing consent statute. Provides that if a victim of certain crimes requests that a defendant be tested for HIV, the defendant must be tested. Requires the division of state court administration to annually report to the commission on courts regarding: (1) the implementation of the judicial technology and automation project (JTAP); and (2) statistics compiled by JTAP regarding the number of dissolution of marriage decrees in Indiana entered in the previous year.

Effective: Upon passage; July 1, 2010.

Blanton, Koch, Lawson L, Riecken

(SENATE SPONSORS — STEELE, HEAD, BECKER, LANANE, MRVAN, TALLIAN, TAYLOR, ROGERS)

January 13, 2010, read first time and referred to Committee on Judiciary.
January 28, 2010, amended, reported — Do Pass.
February 1, 2010, read second time, amended, ordered engrossed.
February 2, 2010, engrossed. Read third time, passed. Yeas 97, nays 1.

SENATE ACTION

February 8, 2010, read first time and referred to Committee on Corrections, Criminal, and Civil Matters.
February 18, 2010, amended, reported favorably — Do Pass.

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February 19, 2010

Second Regular Session 116th General Assembly (2010)

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 2009 Regular and Special Sessions of the General Assembly.

ENGROSSED HOUSE BILL No. 1276

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

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

1 SECTION 1. IC 16-41-6-1, AS AMENDED BY P.L.125-2007,
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2010]: Sec. 1. (a) Except as provided in **IC 16-41-8-6**,
4 IC 16-41-10-2.5, and subsection (b), a person may not perform a
5 screening or confirmatory test for the antibody or antigen to HIV
6 without the oral or written consent of the individual to be tested or a
7 representative as authorized under IC 16-36-1. A physician ordering
8 the test or the physician's authorized representative shall document
9 whether or not the individual has consented. The test for the antibody
10 or antigen to HIV may not be performed on a woman under section 5
11 or 6 of this chapter if the woman refuses under section 7 of this chapter
12 to consent to the test.

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

15 (1) If ordered by a physician who has obtained a health care
16 consent under IC 16-36-1 or an implied consent under emergency
17 circumstances and the test is medically necessary to diagnose or

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EH 1276—LS 6773/DI 107+



- 1 treat the patient's condition.
- 2 (2) Under a court order based on clear and convincing evidence
- 3 of a serious and present health threat to others posed by an
- 4 individual. A hearing held under this subsection shall be held in
- 5 camera at the request of the individual.
- 6 (3) If the test is done on blood collected or tested anonymously as
- 7 part of an epidemiologic survey under IC 16-41-2-3 or
- 8 IC 16-41-17-10(a)(5).
- 9 (4) The test is ordered under section 4 of this chapter.
- 10 (5) The test is required or authorized under IC 11-10-3-2.5.

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

13 SECTION 2. IC 16-41-8-5, AS ADDED BY P.L.125-2009,
 14 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 15 JULY 1, 2010]: Sec. 5. **(a) This section does not apply to medical
 16 testing of an individual for whom an indictment or information is
 17 filed for a sex crime and for whom a request to have the individual
 18 tested under section 6 of this chapter is filed.**

19 ~~(a)~~ **(b)** The following definitions apply throughout this section:

- 20 (1) "Bodily fluid" means blood, human waste, or any other bodily
 21 fluid.
- 22 (2) "Dangerous disease" means any of the following:
 23 (A) Chancroid.
 24 (B) Chlamydia.
 25 (C) Gonorrhea.
 26 (D) Hepatitis.
 27 (E) Human immunodeficiency virus (HIV).
 28 (F) Lymphogranuloma venereum.
 29 (G) Syphilis.
 30 (H) Tuberculosis.

31 (3) "Offense involving the transmission of a bodily fluid" means
 32 any offense (including a delinquent act that would be a crime if
 33 committed by an adult) in which a bodily fluid is transmitted from
 34 the defendant to the victim in connection with the commission of
 35 the offense.

36 ~~(b)~~ **(c)** This subsection applies only to a defendant who has been
 37 charged with a potentially disease transmitting offense. At the request
 38 of an alleged victim of the offense, the parent, guardian, or custodian
 39 of an alleged victim who is less than eighteen (18) years of age, or the
 40 parent, guardian, or custodian of an alleged victim who is an
 41 endangered adult (as defined in IC 12-10-3-2), the prosecuting attorney
 42 shall petition a court to order a defendant charged with the commission

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1 of a potentially disease transmitting offense to submit to a screening
 2 test to determine whether the defendant is infected with a dangerous
 3 disease. In the petition, the prosecuting attorney must set forth
 4 information demonstrating that the defendant has committed a
 5 potentially disease transmitting offense. The court shall set the matter
 6 for hearing not later than forty-eight (48) hours after the prosecuting
 7 attorney files a petition under this subsection. The alleged victim, the
 8 parent, guardian, or custodian of an alleged victim who is less than
 9 eighteen (18) years of age, and the parent, guardian, or custodian of an
 10 alleged victim who is an endangered adult (as defined in IC 12-10-3-2)
 11 are entitled to receive notice of the hearing and are entitled to attend
 12 the hearing. The defendant and the defendant's counsel are entitled to
 13 receive notice of the hearing and are entitled to attend the hearing. If,
 14 following the hearing, the court finds probable cause to believe that the
 15 defendant has committed a potentially disease transmitting offense, the
 16 court may order the defendant to submit to a screening test for one (1)
 17 or more dangerous diseases. If the defendant is charged with
 18 committing battery by body waste (IC 35-42-2-6), the court may limit
 19 testing under this subsection to a test only for human
 20 immunodeficiency virus (HIV). However, the court may order
 21 additional testing for human immunodeficiency virus (HIV) as may be
 22 medically appropriate. The court shall take actions to ensure the
 23 confidentiality of evidence introduced at the hearing.

24 (c) (d) This subsection applies only to a defendant who has been
 25 charged with an offense involving the transmission of a bodily fluid. At
 26 the request of an alleged victim of the offense, the parent, guardian, or
 27 custodian of an alleged victim who is less than eighteen (18) years of
 28 age, or the parent, guardian, or custodian of an alleged victim who is
 29 an endangered adult (as defined in IC 12-10-3-2), the prosecuting
 30 attorney shall petition a court to order a defendant charged with the
 31 commission of an offense involving the transmission of a bodily fluid
 32 to submit to a screening test to determine whether the defendant is
 33 infected with a dangerous disease. In the petition, the prosecuting
 34 attorney must set forth information demonstrating that:

- 35 (1) the defendant has committed an offense; and
- 36 (2) a bodily fluid was transmitted from the defendant to the victim
- 37 in connection with the commission of the offense.

38 The court shall set the matter for hearing not later than forty-eight (48)
 39 hours after the prosecuting attorney files a petition under this
 40 subsection. The alleged victim of the offense, the parent, guardian, or
 41 custodian of an alleged victim who is less than eighteen (18) years of
 42 age, and the parent, guardian, or custodian of an alleged victim who is

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1 an endangered adult (as defined in IC 12-10-3-2) are entitled to receive
 2 notice of the hearing and are entitled to attend the hearing. The
 3 defendant and the defendant's counsel are entitled to receive notice of
 4 the hearing and are entitled to attend the hearing. If, following the
 5 hearing, the court finds probable cause to believe that the defendant has
 6 committed an offense and that a bodily fluid was transmitted from the
 7 defendant to the alleged victim in connection with the commission of
 8 the offense, the court may order the defendant to submit to a screening
 9 test for one (1) or more dangerous diseases. If the defendant is charged
 10 with committing battery by body waste (IC 35-42-2-6), the court may
 11 limit testing under this subsection to a test only for human
 12 immunodeficiency virus (HIV). However, the court may order
 13 additional testing for human immunodeficiency virus (HIV) as may be
 14 medically appropriate. The court shall take actions to ensure the
 15 confidentiality of evidence introduced at the hearing.

16 ~~(d)~~ (e) The testimonial privileges applying to communication
 17 between a husband and wife and between a health care provider and
 18 the health care provider's patient are not sufficient grounds for not
 19 testifying or providing other information at a hearing conducted in
 20 accordance with this section.

21 ~~(e)~~ (f) A health care provider (as defined in IC 16-18-2-163) who
 22 discloses information that must be disclosed to comply with this
 23 section is immune from civil and criminal liability under Indiana
 24 statutes that protect patient privacy and confidentiality.

25 ~~(f)~~ (g) The results of a screening test conducted under this section
 26 shall be kept confidential if the defendant ordered to submit to the
 27 screening test under this section has not been convicted of the
 28 potentially disease transmitting offense or offense involving the
 29 transmission of a bodily fluid with which the defendant is charged. The
 30 results may not be made available to any person or public or private
 31 agency other than the following:

- 32 (1) The defendant and the defendant's counsel.
- 33 (2) The prosecuting attorney.
- 34 (3) The department of correction or the penal facility, juvenile
 35 detention facility, or secure private facility where the defendant
 36 is housed.
- 37 (4) The alleged victim or the parent, guardian, or custodian of an
 38 alleged victim who is less than eighteen (18) years of age, or the
 39 parent, guardian, or custodian of an alleged victim who is an
 40 endangered adult (as defined in IC 12-10-3-2), and the alleged
 41 victim's counsel.

42 The results of a screening test conducted under this section may not be

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1 admitted against a defendant in a criminal proceeding or against a child
2 in a juvenile delinquency proceeding.

3 ~~(g)~~ **(h)** As soon as practicable after a screening test ordered under
4 this section has been conducted, the alleged victim or the parent,
5 guardian, or custodian of an alleged victim who is less than eighteen
6 (18) years of age, or the parent, guardian, or custodian of an alleged
7 victim who is an endangered adult (as defined in IC 12-10-3-2), and the
8 victim's counsel shall be notified of the results of the test.

9 ~~(h)~~ **(i)** An alleged victim may disclose the results of a screening test
10 to which a defendant is ordered to submit under this section to an
11 individual or organization to protect the health and safety of or to seek
12 compensation for:

- 13 (1) the alleged victim;
- 14 (2) the alleged victim's sexual partner; or
- 15 (3) the alleged victim's family.

16 ~~(i)~~ **(j)** The court shall order a petition filed and any order entered
17 under this section sealed.

18 ~~(j)~~ **(k)** A person that knowingly or intentionally:
19 (1) receives notification or disclosure of the results of a screening
20 test under this section; and
21 (2) discloses the results of the screening test in violation of this
22 section;

23 commits a Class B misdemeanor.

24 SECTION 3. IC 16-41-8-6 IS ADDED TO THE INDIANA CODE
25 AS A **NEW SECTION TO READ AS FOLLOWS [EFFECTIVE**
26 **UPON PASSAGE]: Sec. 6. (a) If an indictment or information**
27 **alleges that the defendant compelled another person to engage in**
28 **sexual activity by force or threat of force, the alleged victim of the**
29 **offense described in the indictment or information may request**
30 **that the defendant against whom the indictment or information is**
31 **filed be tested for the human immunodeficiency virus (HIV).**

32 **(b) Not later than forty-eight (48) hours after an alleged victim**
33 **described in subsection (a) requests that the defendant be tested for**
34 **the human immunodeficiency virus (HIV), the defendant must be**
35 **tested for the human immunodeficiency virus (HIV).**

36 **(c) As soon as practicable, the results of a test for the human**
37 **immunodeficiency virus (HIV) conducted under subsection (b)**
38 **shall be sent to:**

- 39 (1) the alleged victim;
- 40 (2) the parent or guardian of the alleged victim, if the alleged
41 victim is less than eighteen (18) years of age; and
- 42 (3) the defendant.

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1 (d) If follow-up testing of the defendant for the human
2 immunodeficiency virus (HIV) is necessary, the results of follow-up
3 testing of the defendant shall be sent to:

- 4 (1) the alleged victim;
- 5 (2) the parent or guardian of the alleged victim if the alleged
6 victim is less than eighteen (18) years of age; and
- 7 (3) the defendant.

8 SECTION 4. IC 33-24-6-3, AS AMENDED BY P.L.110-2009,
9 SECTION 12, AND AS AMENDED BY P.L.130-2009, SECTION 19,
10 IS CORRECTED AND AMENDED TO READ AS FOLLOWS
11 [EFFECTIVE JULY 1, 2010]: Sec. 3. (a) The division of state court
12 administration shall do the following:

- 13 (1) Examine the administrative and business methods and systems
14 employed in the offices of the clerks of court and other offices
15 related to and serving the courts and make recommendations for
16 necessary improvement.
- 17 (2) Collect and compile statistical data and other information on
18 the judicial work of the courts in Indiana. All justices of the
19 supreme court, judges of the court of appeals, judges of all trial
20 courts, and any city or town courts, whether having general or
21 special jurisdiction, court clerks, court reporters, and other
22 officers and employees of the courts shall, upon notice by the
23 executive director and in compliance with procedures prescribed
24 by the executive director, furnish the executive director the
25 information as is requested concerning the nature and volume of
26 judicial business. The information must include the following:
 - 27 (A) The volume, condition, and type of business conducted by
28 the courts.
 - 29 (B) The methods of procedure in the courts.
 - 30 (C) The work accomplished by the courts.
 - 31 (D) The receipt and expenditure of public money by and for
32 the operation of the courts.
 - 33 (E) The methods of disposition or termination of cases.
- 34 (3) Prepare and publish reports, not less than one (1) or more than
35 two (2) times per year, on the nature and volume of judicial work
36 performed by the courts as determined by the information
37 required in subdivision (2).
- 38 (4) Serve the judicial nominating commission and the judicial
39 qualifications commission in the performance by the commissions
40 of their statutory and constitutional functions.
- 41 (5) Administer the civil legal aid fund as required by IC 33-24-12.
- 42 (6) Administer the judicial technology and automation project

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1 fund established by section 12 of this chapter.

2 (7) *Develop a standard protocol for the exchange of information,*
3 *by not later than December 31, 2009:*

4 (A) *between the protective order registry, established by*
5 *IC 5-2-9-5.5, and county court case management systems;*

6 (B) *at the option of the county prosecuting attorney, for:*

7 ~~(1)~~ (i) *a prosecuting attorney's case management system;*

8 ~~(2)~~ (ii) *a county court case management system; and*

9 ~~(3)~~ (iii) *a county court case management system developed*
10 *and operated by the division of state court administration;*

11 *to interface with the electronic traffic tickets, as defined by*
12 *IC 9-30-3-2.5; and*

13 (C) *between county court case management systems and the*
14 *case management system developed and operated by the*
15 *division of state court administration.*

16 ~~(7)~~ (8) *Establish and administer an electronic system for*
17 *receiving information that relates to certain individuals who may*
18 *be prohibited from possessing a firearm and transmitting this*
19 *information to the Federal Bureau of Investigation for inclusion*
20 *in the NICS.*

21 (9) **Report to the commission on courts established by**
22 **IC 33-23-10-1 by September 1 of each year, regarding:**

23 (A) **the implementation of the judicial technology and**
24 **automation project, including:**

25 (i) **the amount appropriated to date for the project;**

26 (ii) **the total amount expended to date for the project;**

27 (iii) **the amount of other funds received to date;**

28 (iv) **the estimated total appropriation needed to complete**
29 **the project;**

30 (v) **a comparison of actual costs with estimated costs for**
31 **the project;**

32 (vi) **a comparison of actual time to complete the project**
33 **with original estimates;**

34 (vii) **the estimated annual appropriation required to**
35 **maintain the project after completion of rollout; and**

36 (viii) **the number of interfaces that have been requested**
37 **and completed under this section; and**

38 (B) **statistics compiled by the judicial technology and**
39 **automation project regarding the number of dissolution of**
40 **marriage decrees entered in Indiana for the previous year.**

41 (b) All forms to be used in gathering data must be approved by the
42 supreme court and shall be distributed to all judges and clerks before

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1 the start of each period for which reports are required.
2 *(c) The division may adopt rules to implement this section.*
3 SECTION 5. [EFFECTIVE UPON PASSAGE] **(a) Before May 1,**
4 **2010, the criminal justice institute shall notify the United States**
5 **Department of Justice concerning the passage of this act, including**
6 **IC 16-41-8-6, and certify, under 42 U.S.C. 3796hh, the provisions**
7 **of this act.**
8 **(b) This SECTION expires December 1, 2010.**
9 SECTION 6. **An emergency is declared for this act.**

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Judiciary, to which was referred House Bill 1276, 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:

Page 3, line 25, after "Sec. 3." insert "(a)".

Page 4, between lines 35 and 36, begin a new paragraph and insert:

"(b) The institute shall seek grants and federal funds to administer the program described in subsection (a)(22). The program described in subsection (a)(22) may be implemented only if the institute has sufficient funding to operate the program.

SECTION 3. IC 8-1-19.5-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 6. As used in this chapter, "human services" means services provided by government or nonprofit organizations to ensure the health and well-being of Indiana citizens. The term includes services designed to:

- (1) provide relief or assistance after a natural or nonnatural disaster; and
- (2) assist parents with stress issues.

SECTION 4. IC 16-41-6-1, AS AMENDED BY P.L.125-2007, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 1. (a) Except as provided in IC 16-41-8-6, IC 16-41-10-2.5, and subsection (b), a person may not perform a screening or confirmatory test for the antibody or antigen to HIV without the oral or written consent of the individual to be tested or a representative as authorized under IC 16-36-1. A physician ordering the test or the physician's authorized representative shall document whether or not the individual has consented. The test for the antibody or antigen to HIV may not be performed on a woman under section 5 or 6 of this chapter if the woman refuses under section 7 of this chapter to consent to the test.

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

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

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part of an epidemiologic survey under IC 16-41-2-3 or IC 16-41-17-10(a)(5).

(4) The test is ordered under section 4 of this chapter.

(5) The test is required or authorized under IC 11-10-3-2.5.

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

SECTION 5. IC 16-41-8-5, AS ADDED BY P.L.125-2009, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 5. **(a) This section does not apply to medical testing of an individual for whom an indictment or information is filed for a sex crime and for whom a request to have the individual tested under section 6 of this chapter is filed.**

~~(a)~~ **(b)** The following definitions apply throughout this section:

(1) "Bodily fluid" means blood, human waste, or any other bodily fluid.

(2) "Dangerous disease" means any of the following:

- (A) Chancroid.
- (B) Chlamydia.
- (C) Gonorrhea.
- (D) Hepatitis.
- (E) Human immunodeficiency virus (HIV).
- (F) Lymphogranuloma venereum.
- (G) Syphilis.
- (H) Tuberculosis.

(3) "Offense involving the transmission of a bodily fluid" means any offense (including a delinquent act that would be a crime if committed by an adult) in which a bodily fluid is transmitted from the defendant to the victim in connection with the commission of the offense.

~~(b)~~ **(c)** This subsection applies only to a defendant who has been charged with a potentially disease transmitting offense. At the request of an alleged victim of the offense, the parent, guardian, or custodian of an alleged victim who is less than eighteen (18) years of age, or the parent, guardian, or custodian of an alleged victim who is an endangered adult (as defined in IC 12-10-3-2), the prosecuting attorney shall petition a court to order a defendant charged with the commission of a potentially disease transmitting offense to submit to a screening test to determine whether the defendant is infected with a dangerous disease. In the petition, the prosecuting attorney must set forth information demonstrating that the defendant has committed a potentially disease transmitting offense. The court shall set the matter for hearing not later than forty-eight (48) hours after the prosecuting

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attorney files a petition under this subsection. The alleged victim, the parent, guardian, or custodian of an alleged victim who is less than eighteen (18) years of age, and the parent, guardian, or custodian of an alleged victim who is an endangered adult (as defined in IC 12-10-3-2) are entitled to receive notice of the hearing and are entitled to attend the hearing. The defendant and the defendant's counsel are entitled to receive notice of the hearing and are entitled to attend the hearing. If, following the hearing, the court finds probable cause to believe that the defendant has committed a potentially disease transmitting offense, the court may order the defendant to submit to a screening test for one (1) or more dangerous diseases. If the defendant is charged with committing battery by body waste (IC 35-42-2-6), the court may limit testing under this subsection to a test only for human immunodeficiency virus (HIV). However, the court may order additional testing for human immunodeficiency virus (HIV) as may be medically appropriate. The court shall take actions to ensure the confidentiality of evidence introduced at the hearing.

(c) (d) This subsection applies only to a defendant who has been charged with an offense involving the transmission of a bodily fluid. At the request of an alleged victim of the offense, the parent, guardian, or custodian of an alleged victim who is less than eighteen (18) years of age, or the parent, guardian, or custodian of an alleged victim who is an endangered adult (as defined in IC 12-10-3-2), the prosecuting attorney shall petition a court to order a defendant charged with the commission of an offense involving the transmission of a bodily fluid to submit to a screening test to determine whether the defendant is infected with a dangerous disease. In the petition, the prosecuting attorney must set forth information demonstrating that:

- (1) the defendant has committed an offense; and
- (2) a bodily fluid was transmitted from the defendant to the victim in connection with the commission of the offense.

The court shall set the matter for hearing not later than forty-eight (48) hours after the prosecuting attorney files a petition under this subsection. The alleged victim of the offense, the parent, guardian, or custodian of an alleged victim who is less than eighteen (18) years of age, and the parent, guardian, or custodian of an alleged victim who is an endangered adult (as defined in IC 12-10-3-2) are entitled to receive notice of the hearing and are entitled to attend the hearing. The defendant and the defendant's counsel are entitled to receive notice of the hearing and are entitled to attend the hearing. If, following the hearing, the court finds probable cause to believe that the defendant has committed an offense and that a bodily fluid was transmitted from the

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defendant to the alleged victim in connection with the commission of the offense, the court may order the defendant to submit to a screening test for one (1) or more dangerous diseases. If the defendant is charged with committing battery by body waste (IC 35-42-2-6), the court may limit testing under this subsection to a test only for human immunodeficiency virus (HIV). However, the court may order additional testing for human immunodeficiency virus (HIV) as may be medically appropriate. The court shall take actions to ensure the confidentiality of evidence introduced at the hearing.

(d) (e) The testimonial privileges applying to communication between a husband and wife and between a health care provider and the health care provider's patient are not sufficient grounds for not testifying or providing other information at a hearing conducted in accordance with this section.

(e) (f) A health care provider (as defined in IC 16-18-2-163) who discloses information that must be disclosed to comply with this section is immune from civil and criminal liability under Indiana statutes that protect patient privacy and confidentiality.

(f) (g) The results of a screening test conducted under this section shall be kept confidential if the defendant ordered to submit to the screening test under this section has not been convicted of the potentially disease transmitting offense or offense involving the transmission of a bodily fluid with which the defendant is charged. The results may not be made available to any person or public or private agency other than the following:

- (1) The defendant and the defendant's counsel.
- (2) The prosecuting attorney.
- (3) The department of correction or the penal facility, juvenile detention facility, or secure private facility where the defendant is housed.
- (4) The alleged victim or the parent, guardian, or custodian of an alleged victim who is less than eighteen (18) years of age, or the parent, guardian, or custodian of an alleged victim who is an endangered adult (as defined in IC 12-10-3-2), and the alleged victim's counsel.

The results of a screening test conducted under this section may not be admitted against a defendant in a criminal proceeding or against a child in a juvenile delinquency proceeding.

(g) (h) As soon as practicable after a screening test ordered under this section has been conducted, the alleged victim or the parent, guardian, or custodian of an alleged victim who is less than eighteen (18) years of age, or the parent, guardian, or custodian of an alleged

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victim who is an endangered adult (as defined in IC 12-10-3-2), and the victim's counsel shall be notified of the results of the test.

(h) (i) An alleged victim may disclose the results of a screening test to which a defendant is ordered to submit under this section to an individual or organization to protect the health and safety of or to seek compensation for:

- (1) the alleged victim;
- (2) the alleged victim's sexual partner; or
- (3) the alleged victim's family.

(h) (j) The court shall order a petition filed and any order entered under this section sealed.

(h) (k) A person that knowingly or intentionally:

- (1) receives notification or disclosure of the results of a screening test under this section; and
- (2) discloses the results of the screening test in violation of this section;

commits a Class B misdemeanor.

SECTION 6. IC 16-41-8-6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 6. (a) If an indictment or information alleges that the defendant compelled another person to engage in sexual activity by force or threat of force, the alleged victim of the offense described in the indictment or information may request that the defendant against whom the indictment or information is filed be tested for the human immunodeficiency virus (HIV).**

(b) Not later than forty-eight (48) hours after an alleged victim described in subsection (a) requests that the defendant be tested for the human immunodeficiency virus (HIV), the defendant must be tested for the human immunodeficiency virus (HIV).

(c) As soon as practicable, the results of a test for the human immunodeficiency virus (HIV) conducted under subsection (b) shall be sent to:

- (1) the alleged victim;**
- (2) the parent or guardian of the alleged victim, if the alleged victim is less than eighteen (18) years of age; and**
- (3) the defendant.**

(d) If follow-up testing of the defendant for the human immunodeficiency virus (HIV) is necessary, the results of follow-up testing of the defendant shall be sent to:

- (1) the alleged victim;**
- (2) the parent or guardian of the alleged victim if the alleged victim is less than eighteen (18) years of age; and**

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(3) the defendant."

Page 5, line 11, delete "though" and insert "**through**".

Page 6, line 32, delete "require the department" and insert "**appoint, or request a juvenile court to appoint, a court appointed special advocate or guardian ad litem**".

Page 6, delete lines 34 through 42.

Page 7, delete lines 1 through 28, begin a new paragraph and insert:
"SECTION 7. IC 31-32-3-11 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 11. A court may appoint a court appointed special advocate or guardian ad litem to facilitate a supervised visitation as described in IC 31-25-2-22.**

SECTION 8. IC 33-24-6-3, AS AMENDED BY P.L.110-2009, SECTION 12, AND AS AMENDED BY P.L.130-2009, SECTION 19, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 3. (a) The division of state court administration shall do the following:

- (1) Examine the administrative and business methods and systems employed in the offices of the clerks of court and other offices related to and serving the courts and make recommendations for necessary improvement.
- (2) Collect and compile statistical data and other information on the judicial work of the courts in Indiana. All justices of the supreme court, judges of the court of appeals, judges of all trial courts, and any city or town courts, whether having general or special jurisdiction, court clerks, court reporters, and other officers and employees of the courts shall, upon notice by the executive director and in compliance with procedures prescribed by the executive director, furnish the executive director the information as is requested concerning the nature and volume of judicial business. The information must include the following:
 - (A) The volume, condition, and type of business conducted by the courts.
 - (B) The methods of procedure in the courts.
 - (C) The work accomplished by the courts.
 - (D) The receipt and expenditure of public money by and for the operation of the courts.
 - (E) The methods of disposition or termination of cases.
- (3) Prepare and publish reports, not less than one (1) or more than two (2) times per year, on the nature and volume of judicial work performed by the courts as determined by the information required in subdivision (2).

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(4) Serve the judicial nominating commission and the judicial qualifications commission in the performance by the commissions of their statutory and constitutional functions.

(5) Administer the civil legal aid fund as required by IC 33-24-12.

(6) Administer the judicial technology and automation project fund established by section 12 of this chapter.

(7) *Develop a standard protocol for the exchange of information, by not later than December 31, 2009:*

(A) between the protective order registry, established by IC 5-2-9-5.5, and county court case management systems;

(B) at the option of the county prosecuting attorney, for:

~~(1)~~ **(i)** *a prosecuting attorney's case management system;*

~~(2)~~ **(ii)** *a county court case management system; and*

~~(3)~~ **(iii)** *a county court case management system developed and operated by the division of state court administration; to interface with the electronic traffic tickets, as defined by IC 9-30-3-2.5; and*

(C) between county court case management systems and the case management system developed and operated by the division of state court administration.

~~(8)~~ **(8)** *Establish and administer an electronic system for receiving information that relates to certain individuals who may be prohibited from possessing a firearm and transmitting this information to the Federal Bureau of Investigation for inclusion in the NICS.*

(9) Report to the commission on courts established by IC 33-23-10-1 by September 1 of each year, regarding:

(A) the implementation of the judicial technology and automation project; and

(B) statistics compiled by the judicial technology and automation project regarding the number of dissolution of marriage decrees entered in Indiana for the previous year.

(b) All forms to be used in gathering data must be approved by the supreme court and shall be distributed to all judges and clerks before the start of each period for which reports are required.

(c) The division may adopt rules to implement this section."

Page 8, line 10, after "convicted" delete "of" and insert "**of:**

(1)".

Page 8, line 11, delete "shall" and insert "**shall; and**

(2) a crime that involved domestic abuse, neglect, or violence, the court may;".

Page 8, line 11, beginning with "require" begin a new line blocked

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Page 8, delete lines 32 through 35, begin a new paragraph and insert:

"SECTION 17. [EFFECTIVE UPON PASSAGE] **(a) Before May 1, 2010, the criminal justice institute shall notify the United States Department of Justice concerning the passage of this act, including IC 16-41-8-6, and certify, under 42 U.S.C. 3796hh, the provisions of this act.**

(b) This SECTION expires December 1, 2010.

SECTION 18. **An emergency is declared for this act."**

Re-number all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1276 as introduced.)

LAWSON L, Chair

Committee Vote: yeas 8, nays 2.

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HOUSE MOTION

Mr. Speaker: I move that House Bill 1276 be amended to read as follows:

Page 5, between lines 6 and 7, begin a new paragraph and insert:

"SECTION 4. IC 8-1-19.5-9.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 9.5. A recognized 211 service provider shall provide assistance with parental stress issues if requested by a person calling 211."**

Page 14, line 3, delete "batterers" and insert "**batterer's**".

Page 14, line 6, delete "batterers" and insert "**batterer's**".

Page 14, line 7, delete "batterers" and insert "**batterer's**".

Page 14, line 15, delete "batterers" and insert "**batterer's**".

Re-number all SECTIONS consecutively.

(Reference is to HB 1276 as printed January 29, 2010.)

BLANTON



HOUSE MOTION

Mr. Speaker: I move that House Bill 1276 be amended to read as follows:

Page 9, line 33, delete "shall" and insert "**may**".

(Reference is to HB 1276 as printed January 29, 2010.)

THOMPSON

HOUSE MOTION

Mr. Speaker: I move that House Bill 1276 be amended to read as follows:

Page 11, line 25, after "22." insert "**(a)**".

Page 11, line 29, delete "special advocate or guardian ad litem" and insert "**supervised visit provider**".

Page 11, delete lines 31 through 35, begin a new paragraph and insert:

"(b) If a supervised visit provider is appointed under subsection (a), the person convicted of domestic battery is responsible for all costs for the supervised visit provider."

Page 14, line 3, delete "batterers" and insert "**batterer's**".

Page 14, line 6, delete "batterers" and insert "**batterer's**".

Page 14, line 7, delete "batterers" and insert "**batterer's**".

Page 14, line 15, delete "batterers" and insert "**batterer's**".

Renumber all SECTIONS consecutively.

(Reference is to HB 1276 as printed January 29, 2010.)

LAWSON L

COMMITTEE REPORT

Madam President: The Senate Committee on Corrections, Criminal, and Civil Matters, to which was referred House Bill No. 1276, 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 1, delete lines 1 through 17.

Delete pages 2 through 4.

Page 5, delete lines 1 through 11.

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Page 9, delete lines 36 through 42.

Delete page 10.

Page 11, delete lines 1 through 38.

Page 13, line 13, delete "; and" and insert ", **including:**

- (i) the amount appropriated to date for the project;**
- (ii) the total amount expended to date for the project;**
- (iii) the amount of other funds received to date;**
- (iv) the estimated total appropriation needed to complete the project;**
- (v) a comparison of actual costs with estimated costs for the project;**
- (vi) a comparison of actual time to complete the project with original estimates;**
- (vii) the estimated annual appropriation required to maintain the project after completion of rollout; and**
- (viii) the number of interfaces that have been requested and completed under this section; and".**

Page 13, delete lines 21 through 42.

Page 14, delete lines 1 through 25.

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1276 as reprinted February 2, 2010.)

STEELE, Chairperson

Committee Vote: Yeas 6, Nays 0.

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