



Reprinted  
February 25, 2010

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# ENGROSSED HOUSE BILL No. 1276

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DIGEST OF HB 1276 (Updated February 24, 2010 4:25 pm - DI 104)

**Citations Affected:** IC 5-14; IC 16-39; IC 16-41; IC 33-24; IC 34-30; noncode.

**Synopsis:** Release of records, HIV testing and judicial technology. Specifies that: (1) records concerning communicable diseases may be disclosed; and (2) patient records that have been classified as confidential are not required to be made available for inspection after 75 years (as required for other confidential records). Sets parameters that a public agency must follow when creating exceptions for the disclosure of records. Requires the release of certain mental health care information in certain circumstances and provides for civil immunity for the person releasing the information. 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.

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## Blanton, Koch, Lawson L, Riecken

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

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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.  
February 24, 2010, read second time, amended, ordered engrossed.

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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 health information and public records.

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

- 1 SECTION 1. IC 5-14-3-4, AS AMENDED BY P.L.120-2008,  
2 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2010]: Sec. 4. (a) The following public records are excepted  
4 from section 3 of this chapter and may not be disclosed by a public  
5 agency, unless access to the records is specifically required by a state  
6 or federal statute or is ordered by a court under the rules of discovery:  
7 (1) Those declared confidential by state statute.  
8 (2) Those declared confidential by rule adopted by a public  
9 agency under specific authority to classify public records as  
10 confidential granted to the public agency by statute.  
11 (3) Those required to be kept confidential by federal law.  
12 (4) Records containing trade secrets.  
13 (5) Confidential financial information obtained, upon request,  
14 from a person. However, this does not include information that is  
15 filed with or received by a public agency pursuant to state statute.  
16 (6) Information concerning research, including actual research  
17 documents, conducted under the auspices of a state educational

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- 1 institution, including information:
- 2 (A) concerning any negotiations made with respect to the
- 3 research; and
- 4 (B) received from another party involved in the research.
- 5 (7) Grade transcripts and license examination scores obtained as
- 6 part of a licensure process.
- 7 (8) Those declared confidential by or under rules adopted by the
- 8 supreme court of Indiana.
- 9 (9) Patient medical records and charts created by a provider,
- 10 unless the patient gives written consent under IC 16-39 **or as**
- 11 **provided under IC 16-41-8.**
- 12 (10) Application information declared confidential by the board
- 13 of the Indiana economic development corporation under
- 14 IC 5-28-16.
- 15 (11) A photograph, a video recording, or an audio recording of an
- 16 autopsy, except as provided in IC 36-2-14-10.
- 17 (12) A Social Security number contained in the records of a
- 18 public agency.
- 19 (b) Except as otherwise provided by subsection (a), the following
- 20 public records shall be excepted from section 3 of this chapter at the
- 21 discretion of a public agency:
- 22 (1) Investigatory records of law enforcement agencies. However,
- 23 certain law enforcement records must be made available for
- 24 inspection and copying as provided in section 5 of this chapter.
- 25 (2) The work product of an attorney representing, pursuant to
- 26 state employment or an appointment by a public agency:
- 27 (A) a public agency;
- 28 (B) the state; or
- 29 (C) an individual.
- 30 (3) Test questions, scoring keys, and other examination data used
- 31 in administering a licensing examination, examination for
- 32 employment, or academic examination before the examination is
- 33 given or if it is to be given again.
- 34 (4) Scores of tests if the person is identified by name and has not
- 35 consented to the release of the person's scores.
- 36 (5) The following:
- 37 (A) Records relating to negotiations between the Indiana
- 38 economic development corporation, the ports of Indiana, the
- 39 Indiana state department of agriculture, the Indiana finance
- 40 authority, an economic development commission, a local
- 41 economic development organization (as defined in
- 42 IC 5-28-11-2(3)), or a governing body of a political

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subdivision with industrial, research, or commercial prospects, if the records are created while negotiations are in progress.

(B) Notwithstanding clause (A), the terms of the final offer of public financial resources communicated by the Indiana economic development corporation, the ports of Indiana, the Indiana finance authority, an economic development commission, or a governing body of a political subdivision to an industrial, a research, or a commercial prospect shall be available for inspection and copying under section 3 of this chapter after negotiations with that prospect have terminated.

(C) When disclosing a final offer under clause (B), the Indiana economic development corporation shall certify that the information being disclosed accurately and completely represents the terms of the final offer.

(6) Records that are intra-agency or interagency advisory or deliberative material, including material developed by a private contractor under a contract with a public agency, that are expressions of opinion or are of a speculative nature, and that are communicated for the purpose of decision making.

(7) Diaries, journals, or other personal notes serving as the functional equivalent of a diary or journal.

(8) Personnel files of public employees and files of applicants for public employment, except for:

- (A) the name, compensation, job title, business address, business telephone number, job description, education and training background, previous work experience, or dates of first and last employment of present or former officers or employees of the agency;
- (B) information relating to the status of any formal charges against the employee; and
- (C) the factual basis for a disciplinary action in which final action has been taken and that resulted in the employee being suspended, demoted, or discharged.

However, all personnel file information shall be made available to the affected employee or the employee's representative. This subdivision does not apply to disclosure of personnel information generally on all employees or for groups of employees without the request being particularized by employee name.

(9) Minutes or records of hospital medical staff meetings.

(10) Administrative or technical information that would jeopardize a record keeping or security system.

(11) Computer programs, computer codes, computer filing

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- 1 systems, and other software that are owned by the public agency
- 2 or entrusted to it and portions of electronic maps entrusted to a
- 3 public agency by a utility.
- 4 (12) Records specifically prepared for discussion or developed
- 5 during discussion in an executive session under IC 5-14-1.5-6.1.
- 6 However, this subdivision does not apply to that information
- 7 required to be available for inspection and copying under
- 8 subdivision (8).
- 9 (13) The work product of the legislative services agency under
- 10 personnel rules approved by the legislative council.
- 11 (14) The work product of individual members and the partisan
- 12 staffs of the general assembly.
- 13 (15) The identity of a donor of a gift made to a public agency if:
- 14 (A) the donor requires nondisclosure of the donor's identity as
- 15 a condition of making the gift; or
- 16 (B) after the gift is made, the donor or a member of the donor's
- 17 family requests nondisclosure.
- 18 (16) Library or archival records:
- 19 (A) which can be used to identify any library patron; or
- 20 (B) deposited with or acquired by a library upon a condition
- 21 that the records be disclosed only:
- 22 (i) to qualified researchers;
- 23 (ii) after the passing of a period of years that is specified in
- 24 the documents under which the deposit or acquisition is
- 25 made; or
- 26 (iii) after the death of persons specified at the time of the
- 27 acquisition or deposit.
- 28 However, nothing in this subdivision shall limit or affect contracts
- 29 entered into by the Indiana state library pursuant to IC 4-1-6-8.
- 30 (17) The identity of any person who contacts the bureau of motor
- 31 vehicles concerning the ability of a driver to operate a motor
- 32 vehicle safely and the medical records and evaluations made by
- 33 the bureau of motor vehicles staff or members of the driver
- 34 licensing medical advisory board regarding the ability of a driver
- 35 to operate a motor vehicle safely. However, upon written request
- 36 to the commissioner of the bureau of motor vehicles, the driver
- 37 must be given copies of the driver's medical records and
- 38 evaluations.
- 39 (18) School safety and security measures, plans, and systems,
- 40 including emergency preparedness plans developed under 511
- 41 IAC 6.1-2-2.5.
- 42 (19) A record or a part of a record, the public disclosure of which

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would have a reasonable likelihood of threatening public safety by exposing a vulnerability to terrorist attack. A record described under this subdivision includes:

- (A) a record assembled, prepared, or maintained to prevent, mitigate, or respond to an act of terrorism under IC 35-47-12-1 or an act of agricultural terrorism under IC 35-47-12-2;
- (B) vulnerability assessments;
- (C) risk planning documents;
- (D) needs assessments;
- (E) threat assessments;
- (F) intelligence assessments;
- (G) domestic preparedness strategies;
- (H) the location of community drinking water wells and surface water intakes;
- (I) the emergency contact information of emergency responders and volunteers;
- (J) infrastructure records that disclose the configuration of critical systems such as communication, electrical, ventilation, water, and wastewater systems; and
- (K) detailed drawings or specifications of structural elements, floor plans, and operating, utility, or security systems, whether in paper or electronic form, of any building or facility located on an airport (as defined in IC 8-21-1-1) that is owned, occupied, leased, or maintained by a public agency. A record described in this clause may not be released for public inspection by any public agency without the prior approval of the public agency that owns, occupies, leases, or maintains the airport. The public agency that owns, occupies, leases, or maintains the airport:
  - (i) is responsible for determining whether the public disclosure of a record or a part of a record has a reasonable likelihood of threatening public safety by exposing a vulnerability to terrorist attack; and
  - (ii) must identify a record described under item (i) and clearly mark the record as "confidential and not subject to public disclosure under IC 5-14-3-4(b)(19)(J) without approval of (insert name of submitting public agency)".

This subdivision does not apply to a record or portion of a record pertaining to a location or structure owned or protected by a public agency in the event that an act of terrorism under IC 35-47-12-1 or an act of agricultural terrorism under IC 35-47-12-2 has occurred at that location or structure, unless

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1 release of the record or portion of the record would have a  
 2 reasonable likelihood of threatening public safety by exposing a  
 3 vulnerability of other locations or structures to terrorist attack.  
 4 (20) The following personal information concerning a customer  
 5 of a municipally owned utility (as defined in IC 8-1-2-1):  
 6 (A) Telephone number.  
 7 (B) Address.  
 8 (C) Social Security number.  
 9 (21) The following personal information about a complainant  
 10 contained in records of a law enforcement agency:  
 11 (A) Telephone number.  
 12 (B) The complainant's address. However, if the complainant's  
 13 address is the location of the suspected crime, infraction,  
 14 accident, or complaint reported, the address shall be made  
 15 available for public inspection and copying.  
 16 (22) Notwithstanding subdivision (8)(A), the name,  
 17 compensation, job title, business address, business telephone  
 18 number, job description, education and training background,  
 19 previous work experience, or dates of first employment of a law  
 20 enforcement officer who is operating in an undercover capacity.  
 21 (23) Records requested by an offender that:  
 22 (A) contain personal information relating to:  
 23 (i) a correctional officer (as defined in IC 5-10-10-1.5);  
 24 (ii) the victim of a crime; or  
 25 (iii) a family member of a correctional officer or the victim  
 26 of a crime; or  
 27 (B) concern or could affect the security of a jail or correctional  
 28 facility.  
 29 (c) Nothing contained in subsection (b) shall limit or affect the right  
 30 of a person to inspect and copy a public record required or directed to  
 31 be made by any statute or by any rule of a public agency.  
 32 (d) Notwithstanding any other law, a public record that is classified  
 33 as confidential, other than a record concerning an adoption **or patient**  
 34 **medical records**, shall be made available for inspection and copying  
 35 seventy-five (75) years after the creation of that record.  
 36 (e) **Only the content of a public record may form the basis for**  
 37 **the adoption by any public agency of a rule or procedure creating**  
 38 **an exception from disclosure under this section.**  
 39 (f) **Except as provided by law, a public agency may not adopt a**  
 40 **rule or procedure that creates an exception from disclosure under**  
 41 **this section based upon whether a public record is stored or**  
 42 **accessed using paper, electronic media, magnetic media, optical**

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**media, or other information storage technology.**

**(g) Except as provided by law, a public agency may not adopt a rule or procedure nor impose any costs or liabilities that impede or restrict the reproduction or dissemination of any public record.**

- (h)** Notwithstanding subsection (d) and section 7 of this chapter:
  - (1) public records subject to IC 5-15 may be destroyed only in accordance with record retention schedules under IC 5-15; or
  - (2) public records not subject to IC 5-15 may be destroyed in the ordinary course of business.

SECTION 2. IC 16-39-2-6.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 6.5. (a) Without the consent of the patient, the patient's mental health record shall be disclosed to a court to the extent necessary for the court to transmit the information required under the following:**

- (1) IC 12-26-6-8(g).
- (2) IC 12-26-7-5(c).
- (3) IC 35-36-2-4(e).
- (4) IC 35-36-2-5(f).
- (5) IC 35-36-3-1(c).

**(b) A person who discloses information under this section in good faith is immune from civil and criminal liability.**

SECTION 3. 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

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1 individual. A hearing held under this subsection shall be held in  
 2 camera at the request of the individual.  
 3 (3) If the test is done on blood collected or tested anonymously as  
 4 part of an epidemiologic survey under IC 16-41-2-3 or  
 5 IC 16-41-17-10(a)(5).  
 6 (4) The test is ordered under section 4 of this chapter.  
 7 (5) The test is required or authorized under IC 11-10-3-2.5.  
 8 (c) A court may order a person to undergo testing for HIV under  
 9 IC 35-38-1-10.5(a) or IC 35-38-2-2.3(a)(16).  
 10 SECTION 4. IC 16-41-8-5, AS ADDED BY P.L.125-2009,  
 11 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 12 JULY 1, 2010]: Sec. 5. **(a) This section does not apply to medical  
 13 testing of an individual for whom an indictment or information is  
 14 filed for a sex crime and for whom a request to have the individual  
 15 tested under section 6 of this chapter is filed.**  
 16 ~~(a)~~ **(b)** The following definitions apply throughout this section:  
 17 (1) "Bodily fluid" means blood, human waste, or any other bodily  
 18 fluid.  
 19 (2) "Dangerous disease" means any of the following:  
 20 (A) Chancroid.  
 21 (B) Chlamydia.  
 22 (C) Gonorrhea.  
 23 (D) Hepatitis.  
 24 (E) Human immunodeficiency virus (HIV).  
 25 (F) Lymphogranuloma venereum.  
 26 (G) Syphilis.  
 27 (H) Tuberculosis.  
 28 (3) "Offense involving the transmission of a bodily fluid" means  
 29 any offense (including a delinquent act that would be a crime if  
 30 committed by an adult) in which a bodily fluid is transmitted from  
 31 the defendant to the victim in connection with the commission of  
 32 the offense.  
 33 ~~(b)~~ **(c)** This subsection applies only to a defendant who has been  
 34 charged with a potentially disease transmitting offense. At the request  
 35 of an alleged victim of the offense, the parent, guardian, or custodian  
 36 of an alleged victim who is less than eighteen (18) years of age, or the  
 37 parent, guardian, or custodian of an alleged victim who is an  
 38 endangered adult (as defined in IC 12-10-3-2), the prosecuting attorney  
 39 shall petition a court to order a defendant charged with the commission  
 40 of a potentially disease transmitting offense to submit to a screening  
 41 test to determine whether the defendant is infected with a dangerous  
 42 disease. In the petition, the prosecuting attorney must set forth

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

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

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

35 The court shall set the matter for hearing not later than forty-eight (48)  
 36 hours after the prosecuting attorney files a petition under this  
 37 subsection. The alleged victim of the offense, the parent, guardian, or  
 38 custodian of an alleged victim who is less than eighteen (18) years of  
 39 age, and the parent, guardian, or custodian of an alleged victim who is  
 40 an endangered adult (as defined in IC 12-10-3-2) are entitled to receive  
 41 notice of the hearing and are entitled to attend the hearing. The  
 42 defendant and the defendant's counsel are entitled to receive notice of

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

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

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

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

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

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

42 (g) (h) As soon as practicable after a screening test ordered under

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1 this section has been conducted, the alleged victim or the parent,  
2 guardian, or custodian of an alleged victim who is less than eighteen  
3 (18) years of age, or the parent, guardian, or custodian of an alleged  
4 victim who is an endangered adult (as defined in IC 12-10-3-2), and the  
5 victim's counsel shall be notified of the results of the test.

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

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

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

15 (k) A person that knowingly or intentionally:

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

20 commits a Class B misdemeanor.

21 SECTION 5. IC 16-41-8-6 IS ADDED TO THE INDIANA CODE  
22 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE  
23 UPON PASSAGE]: **Sec. 6. (a) If an indictment or information  
24 alleges that the defendant compelled another person to engage in  
25 sexual activity by force or threat of force, the alleged victim of the  
26 offense described in the indictment or information may request  
27 that the defendant against whom the indictment or information is  
28 filed be tested for the human immunodeficiency virus (HIV).**

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

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

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

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

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

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

- 10           (1) Examine the administrative and business methods and systems
- 11           employed in the offices of the clerks of court and other offices
- 12           related to and serving the courts and make recommendations for
- 13           necessary improvement.
- 14           (2) Collect and compile statistical data and other information on
- 15           the judicial work of the courts in Indiana. All justices of the
- 16           supreme court, judges of the court of appeals, judges of all trial
- 17           courts, and any city or town courts, whether having general or
- 18           special jurisdiction, court clerks, court reporters, and other
- 19           officers and employees of the courts shall, upon notice by the
- 20           executive director and in compliance with procedures prescribed
- 21           by the executive director, furnish the executive director the
- 22           information as is requested concerning the nature and volume of
- 23           judicial business. The information must include the following:
- 24           (A) The volume, condition, and type of business conducted by
- 25           the courts.
- 26           (B) The methods of procedure in the courts.
- 27           (C) The work accomplished by the courts.
- 28           (D) The receipt and expenditure of public money by and for
- 29           the operation of the courts.
- 30           (E) The methods of disposition or termination of cases.
- 31           (3) Prepare and publish reports, not less than one (1) or more than
- 32           two (2) times per year, on the nature and volume of judicial work
- 33           performed by the courts as determined by the information
- 34           required in subdivision (2).
- 35           (4) Serve the judicial nominating commission and the judicial
- 36           qualifications commission in the performance by the commissions
- 37           of their statutory and constitutional functions.
- 38           (5) Administer the civil legal aid fund as required by IC 33-24-12.
- 39           (6) Administer the judicial technology and automation project
- 40           fund established by section 12 of this chapter.
- 41           (7) *Develop a standard protocol for the exchange of information,*
- 42           *by not later than December 31, 2009:*

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- 1 (A) between the protective order registry, established by
- 2 IC 5-2-9-5.5, and county court case management systems;
- 3 (B) at the option of the county prosecuting attorney, for:
- 4 ~~(1)~~ (i) a prosecuting attorney's case management system;
- 5 ~~(2)~~ (ii) a county court case management system; and
- 6 ~~(3)~~ (iii) a county court case management system developed
- 7 and operated by the division of state court administration;
- 8 to interface with the electronic traffic tickets, as defined by
- 9 IC 9-30-3-2.5; and
- 10 (C) between county court case management systems and the
- 11 case management system developed and operated by the
- 12 division of state court administration.
- 13 ~~(7)~~ **(8) Establish and administer an electronic system for**
- 14 **receiving information that relates to certain individuals who may**
- 15 **be prohibited from possessing a firearm and transmitting this**
- 16 **information to the Federal Bureau of Investigation for inclusion**
- 17 **in the NICS.**
- 18 **(9) Report to the commission on courts established by**
- 19 **IC 33-23-10-1 by September 1 of each year, regarding:**
- 20 **(A) the implementation of the judicial technology and**
- 21 **automation project, including:**
- 22 **(i) the amount appropriated to date for the project;**
- 23 **(ii) the total amount expended to date for the project;**
- 24 **(iii) the amount of other funds received to date;**
- 25 **(iv) the estimated total appropriation needed to complete**
- 26 **the project;**
- 27 **(v) a comparison of actual costs with estimated costs for**
- 28 **the project;**
- 29 **(vi) a comparison of actual time to complete the project**
- 30 **with original estimates;**
- 31 **(vii) the estimated annual appropriation required to**
- 32 **maintain the project after completion of rollout; and**
- 33 **(viii) the number of interfaces that have been requested**
- 34 **and completed under this section; and**
- 35 **(B) statistics compiled by the judicial technology and**
- 36 **automation project regarding the number of dissolution of**
- 37 **marriage decrees entered in Indiana for the previous year.**
- 38 (b) All forms to be used in gathering data must be approved by the
- 39 supreme court and shall be distributed to all judges and clerks before
- 40 the start of each period for which reports are required.
- 41 (c) *The division may adopt rules to implement this section.*
- 42 SECTION 7. IC 34-30-2-77.6 IS ADDED TO THE INDIANA

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1 CODE AS A NEW SECTION TO READ AS FOLLOWS  
2 [EFFECTIVE JULY 1, 2010]: **Sec. 77.6. IC 16-39-2-6.5 (Concerning**  
3 **a person who releases mental health records under certain**  
4 **circumstances).**  
5 SECTION 8. [EFFECTIVE UPON PASSAGE] **(a) Before May 1,**  
6 **2010, the criminal justice institute shall notify the United States**  
7 **Department of Justice concerning the passage of this act, including**  
8 **IC 16-41-8-6, and certify, under 42 U.S.C. 3796hh, the provisions**  
9 **of this act.**  
10 **(b) This SECTION expires December 1, 2010.**  
11 SECTION 9. **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.

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

(j) (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

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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

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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.

**EH 1276—LS 6773/DI 107+**

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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.

SENATE MOTION

Madam President: I move that Engrossed House Bill 1276 be amended to read as follows:

Delete the title and insert the following:

A BILL FOR AN ACT to amend the Indiana Code concerning health information and public records.

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 5-14-3-4, AS AMENDED BY P.L.120-2008, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 4. (a) The following public records are excepted from section 3 of this chapter and may not be disclosed by a public agency, unless access to the records is specifically required by a state

**EH 1276—LS 6773/DI 107+**

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or federal statute or is ordered by a court under the rules of discovery:

- (1) Those declared confidential by state statute.
- (2) Those declared confidential by rule adopted by a public agency under specific authority to classify public records as confidential granted to the public agency by statute.
- (3) Those required to be kept confidential by federal law.
- (4) Records containing trade secrets.
- (5) Confidential financial information obtained, upon request, from a person. However, this does not include information that is filed with or received by a public agency pursuant to state statute.
- (6) Information concerning research, including actual research documents, conducted under the auspices of a state educational institution, including information:
  - (A) concerning any negotiations made with respect to the research; and
  - (B) received from another party involved in the research.
- (7) Grade transcripts and license examination scores obtained as part of a licensure process.
- (8) Those declared confidential by or under rules adopted by the supreme court of Indiana.
- (9) Patient medical records and charts created by a provider, unless the patient gives written consent under IC 16-39 **or as provided under IC 16-41-8.**
- (10) Application information declared confidential by the board of the Indiana economic development corporation under IC 5-28-16.
- (11) A photograph, a video recording, or an audio recording of an autopsy, except as provided in IC 36-2-14-10.
- (12) A Social Security number contained in the records of a public agency.

(b) Except as otherwise provided by subsection (a), the following public records shall be excepted from section 3 of this chapter at the discretion of a public agency:

- (1) Investigatory records of law enforcement agencies. However, certain law enforcement records must be made available for inspection and copying as provided in section 5 of this chapter.
- (2) The work product of an attorney representing, pursuant to state employment or an appointment by a public agency:
  - (A) a public agency;
  - (B) the state; or
  - (C) an individual.
- (3) Test questions, scoring keys, and other examination data used

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in administering a licensing examination, examination for employment, or academic examination before the examination is given or if it is to be given again.

(4) Scores of tests if the person is identified by name and has not consented to the release of the person's scores.

(5) The following:

(A) Records relating to negotiations between the Indiana economic development corporation, the ports of Indiana, the Indiana state department of agriculture, the Indiana finance authority, an economic development commission, a local economic development organization (as defined in IC 5-28-11-2(3)), or a governing body of a political subdivision with industrial, research, or commercial prospects, if the records are created while negotiations are in progress.

(B) Notwithstanding clause (A), the terms of the final offer of public financial resources communicated by the Indiana economic development corporation, the ports of Indiana, the Indiana finance authority, an economic development commission, or a governing body of a political subdivision to an industrial, a research, or a commercial prospect shall be available for inspection and copying under section 3 of this chapter after negotiations with that prospect have terminated.

(C) When disclosing a final offer under clause (B), the Indiana economic development corporation shall certify that the information being disclosed accurately and completely represents the terms of the final offer.

(6) Records that are intra-agency or interagency advisory or deliberative material, including material developed by a private contractor under a contract with a public agency, that are expressions of opinion or are of a speculative nature, and that are communicated for the purpose of decision making.

(7) Diaries, journals, or other personal notes serving as the functional equivalent of a diary or journal.

(8) Personnel files of public employees and files of applicants for public employment, except for:

(A) the name, compensation, job title, business address, business telephone number, job description, education and training background, previous work experience, or dates of first and last employment of present or former officers or employees of the agency;

(B) information relating to the status of any formal charges against the employee; and

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(C) the factual basis for a disciplinary action in which final action has been taken and that resulted in the employee being suspended, demoted, or discharged.

However, all personnel file information shall be made available to the affected employee or the employee's representative. This subdivision does not apply to disclosure of personnel information generally on all employees or for groups of employees without the request being particularized by employee name.

(9) Minutes or records of hospital medical staff meetings.

(10) Administrative or technical information that would jeopardize a record keeping or security system.

(11) Computer programs, computer codes, computer filing systems, and other software that are owned by the public agency or entrusted to it and portions of electronic maps entrusted to a public agency by a utility.

(12) Records specifically prepared for discussion or developed during discussion in an executive session under IC 5-14-1.5-6.1. However, this subdivision does not apply to that information required to be available for inspection and copying under subdivision (8).

(13) The work product of the legislative services agency under personnel rules approved by the legislative council.

(14) The work product of individual members and the partisan staffs of the general assembly.

(15) The identity of a donor of a gift made to a public agency if:

(A) the donor requires nondisclosure of the donor's identity as a condition of making the gift; or

(B) after the gift is made, the donor or a member of the donor's family requests nondisclosure.

(16) Library or archival records:

(A) which can be used to identify any library patron; or

(B) deposited with or acquired by a library upon a condition that the records be disclosed only:

(i) to qualified researchers;

(ii) after the passing of a period of years that is specified in the documents under which the deposit or acquisition is made; or

(iii) after the death of persons specified at the time of the acquisition or deposit.

However, nothing in this subdivision shall limit or affect contracts entered into by the Indiana state library pursuant to IC 4-1-6-8.

(17) The identity of any person who contacts the bureau of motor

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vehicles concerning the ability of a driver to operate a motor vehicle safely and the medical records and evaluations made by the bureau of motor vehicles staff or members of the driver licensing medical advisory board regarding the ability of a driver to operate a motor vehicle safely. However, upon written request to the commissioner of the bureau of motor vehicles, the driver must be given copies of the driver's medical records and evaluations.

(18) School safety and security measures, plans, and systems, including emergency preparedness plans developed under 511 IAC 6.1-2-2.5.

(19) A record or a part of a record, the public disclosure of which would have a reasonable likelihood of threatening public safety by exposing a vulnerability to terrorist attack. A record described under this subdivision includes:

- (A) a record assembled, prepared, or maintained to prevent, mitigate, or respond to an act of terrorism under IC 35-47-12-1 or an act of agricultural terrorism under IC 35-47-12-2;
- (B) vulnerability assessments;
- (C) risk planning documents;
- (D) needs assessments;
- (E) threat assessments;
- (F) intelligence assessments;
- (G) domestic preparedness strategies;
- (H) the location of community drinking water wells and surface water intakes;
- (I) the emergency contact information of emergency responders and volunteers;
- (J) infrastructure records that disclose the configuration of critical systems such as communication, electrical, ventilation, water, and wastewater systems; and
- (K) detailed drawings or specifications of structural elements, floor plans, and operating, utility, or security systems, whether in paper or electronic form, of any building or facility located on an airport (as defined in IC 8-21-1-1) that is owned, occupied, leased, or maintained by a public agency. A record described in this clause may not be released for public inspection by any public agency without the prior approval of the public agency that owns, occupies, leases, or maintains the airport.
  - (i) is responsible for determining whether the public

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disclosure of a record or a part of a record has a reasonable likelihood of threatening public safety by exposing a vulnerability to terrorist attack; and

(ii) must identify a record described under item (i) and clearly mark the record as "confidential and not subject to public disclosure under IC 5-14-3-4(b)(19)(J) without approval of (insert name of submitting public agency)".

This subdivision does not apply to a record or portion of a record pertaining to a location or structure owned or protected by a public agency in the event that an act of terrorism under IC 35-47-12-1 or an act of agricultural terrorism under IC 35-47-12-2 has occurred at that location or structure, unless release of the record or portion of the record would have a reasonable likelihood of threatening public safety by exposing a vulnerability of other locations or structures to terrorist attack.

(20) The following personal information concerning a customer of a municipally owned utility (as defined in IC 8-1-2-1):

- (A) Telephone number.
- (B) Address.
- (C) Social Security number.

(21) The following personal information about a complainant contained in records of a law enforcement agency:

- (A) Telephone number.
- (B) The complainant's address. However, if the complainant's address is the location of the suspected crime, infraction, accident, or complaint reported, the address shall be made available for public inspection and copying.

(22) Notwithstanding subdivision (8)(A), the name, compensation, job title, business address, business telephone number, job description, education and training background, previous work experience, or dates of first employment of a law enforcement officer who is operating in an undercover capacity.

(23) Records requested by an offender that:

- (A) contain personal information relating to:
  - (i) a correctional officer (as defined in IC 5-10-10-1.5);
  - (ii) the victim of a crime; or
  - (iii) a family member of a correctional officer or the victim of a crime; or
- (B) concern or could affect the security of a jail or correctional facility.

(c) Nothing contained in subsection (b) shall limit or affect the right of a person to inspect and copy a public record required or directed to

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be made by any statute or by any rule of a public agency.

(d) Notwithstanding any other law, a public record that is classified as confidential, other than a record concerning an adoption **or patient medical records**, shall be made available for inspection and copying seventy-five (75) years after the creation of that record.

**(e) Only the content of a public record may form the basis for the adoption by any public agency of a rule or procedure creating an exception from disclosure under this section.**

**(f) Except as provided by law, a public agency may not adopt a rule or procedure that creates an exception from disclosure under this section based upon whether a public record is stored or accessed using paper, electronic media, magnetic media, optical media, or other information storage technology.**

**(g) Except as provided by law, a public agency may not adopt a rule or procedure nor impose any costs or liabilities that impede or restrict the reproduction or dissemination of any public record.**

**(h)** Notwithstanding subsection (d) and section 7 of this chapter:  
(1) public records subject to IC 5-15 may be destroyed only in accordance with record retention schedules under IC 5-15; or  
(2) public records not subject to IC 5-15 may be destroyed in the ordinary course of business.

SECTION 2. IC 16-39-2-6.5 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JULY 1, 2010]: **Sec. 6.5. (a) Without the consent of the patient, the patient's mental health record shall be disclosed to a court to the extent necessary for the court to transmit the information required under the following:**

- (1) IC 12-26-6-8(g).**
- (2) IC 12-26-7-5(c).**
- (3) IC 35-36-2-4(e).**
- (4) IC 35-36-2-5(f).**
- (5) IC 35-36-3-1(c).**

**(b) A person who discloses information under this section in good faith is immune from civil and criminal liability."**

Page 8, between lines 2 and 3, begin a new paragraph and insert:

"SECTION 7. IC 34-30-2-77.6 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JULY 1, 2010]: **Sec. 77.6. IC 16-39-2-6.5 (Concerning**

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**a person who releases mental health records under certain circumstances)."**

Renumber all SECTIONS consecutively.

(Reference is to EHB 1276 as printed February 19, 2010.)

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