



January 29, 2010

HOUSE BILL No. 1276

DIGEST OF HB 1276 (Updated January 26, 2010 3:44 pm - DI 107)

Citations Affected: IC 2-5.5; IC 5-2; IC 8-1; IC 16-41; IC 20-30; IC 20-33; IC 21-7; IC 21-48; IC 31-25; IC 31-32; IC 33-24; IC 35-33; IC 35-50; noncode.

Synopsis: Domestic violence, bullying, HIV testing, and sending of sexual material. Requires the sentencing policy study committee to study and make recommendations regarding the sending of sexually suggestive or sexually explicit material over the Internet or by use of a cell phone or similar device. Requires school corporations to provide instruction or programs regarding domestic violence. Amends the definition of "bullying" to include communications transmitted from an electronic communications device or through a social networking web site. Requires a person convicted of domestic battery to complete a batterers' intervention program. Provides that a court may require a person convicted of domestic battery to have only supervised visitation with the person's child. Provides that a court may appoint a court appointed special advocate or a guardian ad litem to facilitate the supervised visitation. Provides that a court may require a person charged with domestic violence to wear a GPS tracking device as a condition of bail. Increases the time a facility is required to have custody of a person arrested for domestic violence to 24 hours. Requires each postsecondary educational institution to adopt policies regarding student notification of dangerous situations on and off campus. Requires the criminal justice institute to establish and administer a program to collect information regarding domestic violence that occurs in Indiana and to report it to the National Incident-Based Reporting System within the Federal Bureau of Investigation.
(Continued next page)

Effective: Upon passage; July 1, 2010.

Blanton

January 13, 2010, read first time and referred to Committee on Judiciary.
January 28, 2010, amended, reported — Do Pass.

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Provides that 211 telephone services shall include assistance with parental stress issues. 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.

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January 29, 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.

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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 2-5.5-2-5, AS ADDED BY P.L.16-2009, SECTION
2 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1,
3 2010]: Sec. 5. The committee shall do the following:
4 (1) Evaluate the existing classification of criminal offenses into
5 felony and misdemeanor categories. In determining the proper
6 category for each felony and misdemeanor, the committee shall
7 consider, to the extent they have relevance, the following:
8 (A) The nature and degree of harm likely to be caused by the
9 offense, including whether the offense involves property,
10 irreplaceable property, a person, a number of persons, or a
11 breach of the public trust.
12 (B) The deterrent effect a particular classification may have on
13 the commission of the offense.
14 (C) The current incidence of the offense in Indiana.
15 (D) The rights of the victim.
16 (2) Recommend structures to be used by a sentencing court in
17 determining the most appropriate sentence to be imposed in a

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1 criminal case, including any combination of imprisonment,
 2 probation, restitution, community service, or house arrest. The
 3 committee shall also consider the following:
 4 (A) The nature and characteristics of the offense.
 5 (B) The severity of the offense in relation to other offenses.
 6 (C) The characteristics of the defendant that mitigate or
 7 aggravate the seriousness of the criminal conduct and the
 8 punishment deserved for that conduct.
 9 (D) The number of the defendant's prior convictions.
 10 (E) The available resources and capacity of the department of
 11 correction, local confinement facilities, and community based
 12 sanctions.
 13 (F) The rights of the victim.
 14 The committee shall include with each set of sentencing
 15 structures an estimate of the effect of the sentencing structures on
 16 the department of correction and local facilities with respect to
 17 both fiscal impact and inmate population.
 18 (3) Review community corrections and home detention programs
 19 for the purpose of:
 20 (A) standardizing procedures and establishing rules for the
 21 supervision of home detainees; and
 22 (B) establishing procedures for the supervision of home
 23 detainees by community corrections programs of adjoining
 24 counties.
 25 (4) Determine the long range needs of the criminal justice and
 26 corrections systems and recommend policy priorities for those
 27 systems.
 28 (5) Identify critical problems in the criminal justice and
 29 corrections systems and recommend strategies to solve the
 30 problems.
 31 (6) Assess the cost effectiveness of the use of state and local
 32 funds in the criminal justice and corrections systems.
 33 (7) Recommend a comprehensive community corrections strategy
 34 based on the following:
 35 (A) A review of existing community corrections programs.
 36 (B) The identification of additional types of community
 37 corrections programs necessary to create an effective
 38 continuum of corrections sanctions.
 39 (C) The identification of categories of offenders who should be
 40 eligible for sentencing to community corrections programs and
 41 the impact that changes to the existing system of community
 42 corrections programs would have on sentencing practices.

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- 1 (D) The identification of necessary changes in state oversight
- 2 and coordination of community corrections programs.
- 3 (E) An evaluation of mechanisms for state funding and local
- 4 community participation in the operation and implementation
- 5 of community corrections programs.
- 6 (F) An analysis of the rate of recidivism of clients under the
- 7 supervision of existing community corrections programs.
- 8 (8) Propose plans, programs, and legislation for improving the
- 9 effectiveness of the criminal justice and corrections systems.
- 10 (9) Evaluate the use of faith based organizations as an alternative
- 11 to incarceration.
- 12 (10) Study issues related to sex offenders, including:
- 13 (A) lifetime parole;
- 14 (B) GPS or other electronic monitoring;
- 15 (C) a classification system for sex offenders;
- 16 (D) recidivism; and
- 17 (E) treatment.
- 18 **(11) Study and make recommendations regarding the sending**
- 19 **of sexually suggestive or sexually explicit material over the**
- 20 **Internet or by use of a cellular telephone or similar device,**
- 21 **including whether school corporations should adopt policies**
- 22 **regarding this topic.**
- 23 SECTION 2. IC 5-2-6-3, AS AMENDED BY P.L.130-2009,
- 24 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 25 JULY 1, 2010]: Sec. 3. (a) The institute is established to do the
- 26 following:
- 27 (1) Evaluate state and local programs associated with:
- 28 (A) the prevention, detection, and solution of criminal
- 29 offenses;
- 30 (B) law enforcement; and
- 31 (C) the administration of criminal and juvenile justice.
- 32 (2) Improve and coordinate all aspects of law enforcement,
- 33 juvenile justice, and criminal justice in this state.
- 34 (3) Stimulate criminal and juvenile justice research.
- 35 (4) Develop new methods for the prevention and reduction of
- 36 crime.
- 37 (5) Prepare applications for funds under the Omnibus Act and the
- 38 Juvenile Justice Act.
- 39 (6) Administer victim and witness assistance funds.
- 40 (7) Administer the traffic safety functions assigned to the institute
- 41 under IC 9-27-2.
- 42 (8) Compile and analyze information and disseminate the

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- 1 information to persons who make criminal justice decisions in this
- 2 state.
- 3 (9) Serve as the criminal justice statistical analysis center for this
- 4 state.
- 5 (10) Identify grants and other funds that can be used by the
- 6 department of correction to carry out its responsibilities
- 7 concerning sex or violent offender registration under IC 11-8-8.
- 8 (11) Administer the application and approval process for
- 9 designating an area of a consolidated or second class city as a
- 10 public safety improvement area under IC 36-8-19.5.
- 11 (12) Develop and maintain a meth watch program to inform
- 12 retailers and the public about illicit methamphetamine production,
- 13 distribution, and use in Indiana.
- 14 (13) Establish, maintain, and operate, subject to specific
- 15 appropriation by the general assembly, a web site containing a list
- 16 of properties (as defined in IC 5-2-6-19(b)) that have been used
- 17 as the site of a methamphetamine laboratory.
- 18 (14) Develop and manage the gang crime witness protection
- 19 program established by section 21 of this chapter.
- 20 (15) Identify grants and other funds that can be used to fund the
- 21 gang crime witness protection program.
- 22 (16) After December 31, 2008, administer the licensing of:
- 23 (A) commercial driver training schools; and
- 24 (B) instructors at commercial driver training schools.
- 25 (17) Administer any sexual offense services.
- 26 (18) Administer domestic violence programs.
- 27 (19) Administer assistance to victims of human sexual trafficking
- 28 offenses as provided in IC 35-42-3.5-4.
- 29 (20) Administer the domestic violence prevention and treatment
- 30 fund under IC 5-2-6.7.
- 31 (21) Administer the family violence and victim assistance fund
- 32 under IC 5-2-6.8.
- 33 **(22) Establish and administer a program to collect**
- 34 **information regarding domestic violence that occurs in**
- 35 **Indiana and to report it to the National Incident-Based**
- 36 **Reporting System within the Federal Bureau of Investigation.**
- 37 **(b) The institute shall seek grants and federal funds to**
- 38 **administer the program described in subsection (a)(22). The**
- 39 **program described in subsection (a)(22) may be implemented only**
- 40 **if the institute has sufficient funding to operate the program.**
- 41 SECTION 3. IC 8-1-19.5-6 IS AMENDED TO READ AS
- 42 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 6. As used in this

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1 chapter, "human services" means services provided by government or
 2 nonprofit organizations to ensure the health and well-being of Indiana
 3 citizens. The term includes services designed to:

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

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

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

- 21 (1) If ordered by a physician who has obtained a health care
 22 consent under IC 16-36-1 or an implied consent under emergency
 23 circumstances and the test is medically necessary to diagnose or
 24 treat the patient's condition.
 25 (2) Under a court order based on clear and convincing evidence
 26 of a serious and present health threat to others posed by an
 27 individual. A hearing held under this subsection shall be held in
 28 camera at the request of the individual.
 29 (3) If the test is done on blood collected or tested anonymously as
 30 part of an epidemiologic survey under IC 16-41-2-3 or
 31 IC 16-41-17-10(a)(5).
 32 (4) The test is ordered under section 4 of this chapter.
 33 (5) The test is required or authorized under IC 11-10-3-2.5.

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

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

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

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1 (1) "Bodily fluid" means blood, human waste, or any other bodily
 2 fluid.
 3 (2) "Dangerous disease" means any of the following:
 4 (A) Chancroid.
 5 (B) Chlamydia.
 6 (C) Gonorrhea.
 7 (D) Hepatitis.
 8 (E) Human immunodeficiency virus (HIV).
 9 (F) Lymphogranuloma venereum.
 10 (G) Syphilis.
 11 (H) Tuberculosis.
 12 (3) "Offense involving the transmission of a bodily fluid" means
 13 any offense (including a delinquent act that would be a crime if
 14 committed by an adult) in which a bodily fluid is transmitted from
 15 the defendant to the victim in connection with the commission of
 16 the offense.
 17 ~~(b)~~ (c) This subsection applies only to a defendant who has been
 18 charged with a potentially disease transmitting offense. At the request
 19 of an alleged victim of the offense, the parent, guardian, or custodian
 20 of an alleged victim who is less than eighteen (18) years of age, or the
 21 parent, guardian, or custodian of an alleged victim who is an
 22 endangered adult (as defined in IC 12-10-3-2), the prosecuting attorney
 23 shall petition a court to order a defendant charged with the commission
 24 of a potentially disease transmitting offense to submit to a screening
 25 test to determine whether the defendant is infected with a dangerous
 26 disease. In the petition, the prosecuting attorney must set forth
 27 information demonstrating that the defendant has committed a
 28 potentially disease transmitting offense. The court shall set the matter
 29 for hearing not later than forty-eight (48) hours after the prosecuting
 30 attorney files a petition under this subsection. The alleged victim, the
 31 parent, guardian, or custodian of an alleged victim who is less than
 32 eighteen (18) years of age, and the parent, guardian, or custodian of an
 33 alleged victim who is an endangered adult (as defined in IC 12-10-3-2)
 34 are entitled to receive notice of the hearing and are entitled to attend
 35 the hearing. The defendant and the defendant's counsel are entitled to
 36 receive notice of the hearing and are entitled to attend the hearing. If,
 37 following the hearing, the court finds probable cause to believe that the
 38 defendant has committed a potentially disease transmitting offense, the
 39 court may order the defendant to submit to a screening test for one (1)
 40 or more dangerous diseases. If the defendant is charged with
 41 committing battery by body waste (IC 35-42-2-6), the court may limit
 42 testing under this subsection to a test only for human

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1 immunodeficiency virus (HIV). However, the court may order
 2 additional testing for human immunodeficiency virus (HIV) as may be
 3 medically appropriate. The court shall take actions to ensure the
 4 confidentiality of evidence introduced at the hearing.

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

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

19 The court shall set the matter for hearing not later than forty-eight (48)
 20 hours after the prosecuting attorney files a petition under this
 21 subsection. The alleged victim of the offense, the parent, guardian, or
 22 custodian of an alleged victim who is less than eighteen (18) years of
 23 age, and the parent, guardian, or custodian of an alleged victim who is
 24 an endangered adult (as defined in IC 12-10-3-2) are entitled to receive
 25 notice of the hearing and are entitled to attend the hearing. The
 26 defendant and the defendant's counsel are entitled to receive notice of
 27 the hearing and are entitled to attend the hearing. If, following the
 28 hearing, the court finds probable cause to believe that the defendant has
 29 committed an offense and that a bodily fluid was transmitted from the
 30 defendant to the alleged victim in connection with the commission of
 31 the offense, the court may order the defendant to submit to a screening
 32 test for one (1) or more dangerous diseases. If the defendant is charged
 33 with committing battery by body waste (IC 35-42-2-6), the court may
 34 limit testing under this subsection to a test only for human
 35 immunodeficiency virus (HIV). However, the court may order
 36 additional testing for human immunodeficiency virus (HIV) as may be
 37 medically appropriate. The court shall take actions to ensure the
 38 confidentiality of evidence introduced at the hearing.

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

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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 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

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1 test under this section; and
2 (2) discloses the results of the screening test in violation of this
3 section;
4 commits a Class B misdemeanor.

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

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

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

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

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

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

31 SECTION 7. IC 20-30-6-16 IS ADDED TO THE INDIANA CODE
32 AS A **NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY**
33 **1, 2010]: Sec. 16. (a) A school corporation shall provide instruction**
34 **or programs regarding domestic violence.**

35 (b) A school corporation may utilize a domestic violence
36 prevention organization to assist with the instruction or programs
37 regarding domestic violence.

38 (c) Instruction on domestic violence prevention may be included
39 in a high school health class.

40 SECTION 8. IC 20-33-8-0.2, AS ADDED BY P.L.106-2005,
41 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
42 JULY 1, 2010]: Sec. 0.2. As used in this chapter, "bullying" means

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1 overt, repeated acts or gestures, including:
 2 (1) verbal or written communications transmitted;
 3 (2) physical acts committed; ~~or~~
 4 (3) any other behaviors committed; ~~or~~
 5 **(4) communications transmitted from an electronic**
 6 **communications device or through a social networking web**
 7 **site;**
 8 by a student or group of students against another student with the intent
 9 to harass, ridicule, humiliate, intimidate, or harm the other student.
 10 SECTION 9. IC 21-7-13-6, AS ADDED BY P.L.2-2007, SECTION
 11 243, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY
 12 1, 2010]: Sec. 6. (a) "Approved postsecondary educational institution",
 13 for purposes of this title (except section 15 of this chapter, IC 21-12-6,
 14 IC 21-12-7, and IC 21-13-1-4) means the following:
 15 (1) A postsecondary educational institution that operates in
 16 Indiana and:
 17 (A) provides an organized two (2) year or longer program of
 18 collegiate grade directly creditable toward a baccalaureate
 19 degree;
 20 (B) is either operated by the state or operated nonprofit; and
 21 (C) is accredited by a recognized regional accrediting agency
 22 or by the commission on proprietary education.
 23 (2) Ivy Tech Community College.
 24 (3) A hospital that operates a nursing diploma program that is
 25 accredited by the Indiana state board of nursing.
 26 (4) A postsecondary proprietary educational institution that meets
 27 the following requirements:
 28 (A) Is incorporated in Indiana, or is registered as a foreign
 29 corporation doing business in Indiana.
 30 (B) Is fully accredited by and is in good standing with the
 31 commission on proprietary education.
 32 (C) Is accredited by and is in good standing with a regional or
 33 national accrediting agency.
 34 (D) Offers a course of study that is at least eighteen (18)
 35 consecutive months in duration (or an equivalent to be
 36 determined by the commission on proprietary education) and
 37 that leads to an associate or a baccalaureate degree recognized
 38 by the commission on proprietary education.
 39 (E) Is certified to the state student assistance commission by
 40 the commission on proprietary education as meeting the
 41 requirements of this subdivision.
 42 (b) "Approved postsecondary educational institution" for purposes

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1 of section 15 of this chapter, IC 21-12-6, IC 21-12-7, ~~and~~ IC 21-13-1-4,
2 **and IC 21-48**, means the following:

- 3 (1) A state educational institution.
- 4 (2) A nonprofit college or university.
- 5 (3) A postsecondary proprietary educational institution that is
- 6 accredited by an accrediting agency recognized by the United
- 7 States Department of Education.

8 SECTION 10. IC 21-48 IS ADDED TO THE INDIANA CODE AS
9 A **NEW ARTICLE TO READ AS FOLLOWS** [EFFECTIVE JULY 1,
10 2010]:

11 **ARTICLE 48. SAFETY AT APPROVED POSTSECONDARY**
12 **EDUCATIONAL INSTITUTIONS**

13 **Chapter 1. Safety Policies**

14 **Sec. 1. (a) Each approved postsecondary educational institution**
15 **shall adopt policies concerning student notification of dangerous**
16 **situations occurring on and off campus.**

17 **(b) Each approved postsecondary educational institution shall**
18 **submit a report to the legislative council and the commission for**
19 **higher education before July 1 of each year. The report must**
20 **include the information regarding the policies that the school has**
21 **adopted as described in subsection (a). The report submitted to the**
22 **legislative council must be in an electronic format under IC 5-14-6.**

23 SECTION 11. IC 31-25-2-22 IS ADDED TO THE INDIANA
24 CODE AS A **NEW SECTION TO READ AS FOLLOWS**
25 [EFFECTIVE JULY 1, 2010]: **Sec. 22. If a court requires a person**
26 **convicted of domestic battery under IC 35-42-2-1.3 to have only**
27 **supervised visitation with the person's child, the court may**
28 **appoint, or request a juvenile court to appoint, a court appointed**
29 **special advocate or guardian ad litem to facilitate the supervised**
30 **visitation.**

31 SECTION 12. IC 31-32-3-11 IS ADDED TO THE INDIANA
32 CODE AS A **NEW SECTION TO READ AS FOLLOWS**
33 [EFFECTIVE JULY 1, 2010]: **Sec. 11. A court may appoint a court**
34 **appointed special advocate or guardian ad litem to facilitate a**
35 **supervised visitation as described in IC 31-25-2-22.**

36 SECTION 13. IC 33-24-6-3, AS AMENDED BY P.L.110-2009,
37 SECTION 12, AND AS AMENDED BY P.L.130-2009, SECTION 19,
38 IS CORRECTED AND AMENDED TO READ AS FOLLOWS
39 [EFFECTIVE JULY 1, 2010]: **Sec. 3. (a) The division of state court**
40 **administration shall do the following:**

- 41 (1) Examine the administrative and business methods and systems
- 42 employed in the offices of the clerks of court and other offices

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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).

(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:*
 - ~~(i)~~ *(i) a prosecuting attorney's case management system;*
 - ~~(ii)~~ *(ii) a county court case management system; and*
 - ~~(iii)~~ *(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*

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1 *division of state court administration.*
2 ~~(7)~~ **(8)** *Establish and administer an electronic system for*
3 *receiving information that relates to certain individuals who may*
4 *be prohibited from possessing a firearm and transmitting this*
5 *information to the Federal Bureau of Investigation for inclusion*
6 *in the NICS.*

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

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

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

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

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

18 SECTION 14. IC 35-33-1-1.7, AS ADDED BY P.L.44-2008,
19 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
20 JULY 1, 2010]: Sec. 1.7. (a) A facility having custody of a person
21 arrested for a crime of domestic violence (as described in
22 IC 35-41-1-6.3) shall keep the person in custody for at least ~~eight (8)~~
23 **twenty-four (24)** hours from the time of the arrest.

24 (b) A person described in subsection (a) may not be released on bail
25 until at least ~~eight (8)~~ **twenty-four (24)** hours from the time of the
26 person's arrest.

27 SECTION 15. IC 35-33-8-11 IS ADDED TO THE INDIANA
28 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
29 [EFFECTIVE JULY 1, 2010]: **Sec. 11. (a) A court may require a**
30 **person who has been charged with a crime of domestic violence (as**
31 **described in IC 35-41-1-6.3) to wear a GPS tracking device as a**
32 **condition of bail.**

33 **(b) A court may order a person who is required to wear a GPS**
34 **tracking device under subsection (a) to pay any costs associated**
35 **with the GPS tracking device.**

36 SECTION 16. IC 35-50-9 IS ADDED TO THE INDIANA CODE
37 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE
38 JULY 1, 2010]:

39 **Chapter 9. Additional Sentence Requirements for Domestic**
40 **Battery Convictions**

41 **Sec. 1. (a) At the time of sentencing for a person convicted of:**
42 **(1) domestic battery under IC 35-42-2-1.3, the court shall; and**

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1 (2) a crime that involved domestic abuse, neglect, or violence,
2 the court may;
3 require the person to complete a batterers' intervention program
4 approved by the court.
5 (b) The person convicted of domestic battery shall pay all
6 expenses of the batterers' intervention program.
7 (c) The batterers' intervention program may be a:
8 (1) certified intervention program; or
9 (2) program administered by:
10 (A) the department of correction;
11 (B) a county jail;
12 (C) a community corrections program;
13 (D) a probation office; or
14 (E) a parole authority.
15 (d) A court may require the completion of a batterers'
16 intervention program:
17 (1) as a condition of:
18 (A) probation; or
19 (B) parole; or
20 (2) to occur while the person is incarcerated:
21 (A) at the department of correction; or
22 (B) in a county jail.
23 SECTION 17. [EFFECTIVE UPON PASSAGE] (a) Before May 1,
24 2010, the criminal justice institute shall notify the United States
25 Department of Justice concerning the passage of this act, including
26 IC 16-41-8-6, and certify, under 42 U.S.C. 3796hh, the provisions
27 of this act.
28 (b) This SECTION expires December 1, 2010.
29 SECTION 18. 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."

Renumber 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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