

## CONFERENCE COMMITTEE REPORT DIGEST FOR EHB 1234

**Citations Affected:** IC 5-14-3-4; IC 8-1-19.5; IC 16-41; IC 25-15; IC 35-33-8; IC 35-46-1-15.1; IC 35-48-7-8.1; IC 35-50-9.

**Synopsis:** Criminal procedures and controlled substances. Conference committee report for EHB 1234. Requires a court to include as a condition of bail the requirement that a defendant charged with a violent crime that results in bodily injury to a person refrain from any direct or indirect contact with the victim for 10 days after release or until the initial hearing, whichever occurs first, if the defendant is released to bail without the court having held a bail hearing in open court. Prohibits certain persons from making certain determinations concerning the remains of a decedent if the decedent had filed a protection order against the person and the protection order currently is in effect. Provides that a pharmacist, pharmacy technician, or person authorized by a pharmacist to dispense a controlled substance may not dispense a controlled substance in a retail pharmacy to a person who is not personally known to the pharmacist, pharmacy technician, or person authorized by a pharmacist to dispense a controlled substance unless the person taking possession of the controlled substance provides documented proof of the person's identification to the pharmacist, pharmacy technician, or person authorized by a pharmacist to dispense a controlled substance. Provides that a court may require a person convicted of domestic battery to complete a certified batterer's intervention program. Provides that a court may require a person charged with domestic violence to wear a GPS tracking device as a condition of bail. Provides that 211 telephone services shall include assistance with parental stress issues. 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. 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. **(This conference committee report: Specifies how the determination that a protection order is in effect is to be made for purposes of determining who may direct the disposition of human remains. Provides that a pharmacist, pharmacy technician, or person authorized by a pharmacist to dispense a controlled substance may not dispense a controlled substance in a retail pharmacy to a person who is not personally known to the pharmacist, pharmacy technician, or person authorized by a pharmacist to dispense a controlled substance unless the person taking possession of the controlled**

**substance provides documented proof of the person's identification to the pharmacist, pharmacy technician, or person authorized by a pharmacist to dispense a controlled substance. Specifies that a no contact order issued as a condition of pretrial release includes a no contact order entered in certain cases where bail is granted without a hearing. Provides that court may require a person convicted of domestic battery to complete a certified batterer's intervention program. Provides that a court may require a person charged with domestic violence to wear a GPS tracking device as a condition of bail. Provides that 211 telephone services shall include assistance with parental stress issues. 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. 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.)**

**Effective:** Upon passage; July 1, 2010.

# CONFERENCE COMMITTEE REPORT

**MADAM PRESIDENT:**

*Your Conference Committee appointed to confer with a like committee from the House upon Engrossed Senate Amendments to Engrossed House Bill No. 1234 respectfully reports that said two committees have conferred and agreed as follows to wit:*

that the House recede from its dissent from all Senate amendments and that the House now concur in all Senate amendments to the bill and that the bill be further amended as follows:

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

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

- 1 (C) When disclosing a final offer under clause (B), the Indiana  
 2 economic development corporation shall certify that the  
 3 information being disclosed accurately and completely  
 4 represents the terms of the final offer.
- 5 (6) Records that are intra-agency or interagency advisory or  
 6 deliberative material, including material developed by a private  
 7 contractor under a contract with a public agency, that are  
 8 expressions of opinion or are of a speculative nature, and that are  
 9 communicated for the purpose of decision making.
- 10 (7) Diaries, journals, or other personal notes serving as the  
 11 functional equivalent of a diary or journal.
- 12 (8) Personnel files of public employees and files of applicants for  
 13 public employment, except for:
- 14 (A) the name, compensation, job title, business address,  
 15 business telephone number, job description, education and  
 16 training background, previous work experience, or dates of  
 17 first and last employment of present or former officers or  
 18 employees of the agency;
- 19 (B) information relating to the status of any formal charges  
 20 against the employee; and
- 21 (C) the factual basis for a disciplinary action in which final  
 22 action has been taken and that resulted in the employee being  
 23 suspended, demoted, or discharged.
- 24 However, all personnel file information shall be made available  
 25 to the affected employee or the employee's representative. This  
 26 subdivision does not apply to disclosure of personnel information  
 27 generally on all employees or for groups of employees without the  
 28 request being particularized by employee name.
- 29 (9) Minutes or records of hospital medical staff meetings.
- 30 (10) Administrative or technical information that would  
 31 jeopardize a record keeping or security system.
- 32 (11) Computer programs, computer codes, computer filing  
 33 systems, and other software that are owned by the public agency  
 34 or entrusted to it and portions of electronic maps entrusted to a  
 35 public agency by a utility.
- 36 (12) Records specifically prepared for discussion or developed  
 37 during discussion in an executive session under IC 5-14-1.5-6.1.  
 38 However, this subdivision does not apply to that information  
 39 required to be available for inspection and copying under  
 40 subdivision (8).
- 41 (13) The work product of the legislative services agency under  
 42 personnel rules approved by the legislative council.
- 43 (14) The work product of individual members and the partisan  
 44 staffs of the general assembly.
- 45 (15) The identity of a donor of a gift made to a public agency if:
- 46 (A) the donor requires nondisclosure of the donor's identity as  
 47 a condition of making the gift; or
- 48 (B) after the gift is made, the donor or a member of the donor's  
 49 family requests nondisclosure.
- 50 (16) Library or archival records:
- 51 (A) which can be used to identify any library patron; or

- 1 (B) deposited with or acquired by a library upon a condition  
 2 that the records be disclosed only:
- 3 (i) to qualified researchers;
  - 4 (ii) after the passing of a period of years that is specified in  
 5 the documents under which the deposit or acquisition is  
 6 made; or
  - 7 (iii) after the death of persons specified at the time of the  
 8 acquisition or deposit.
- 9 However, nothing in this subdivision shall limit or affect contracts  
 10 entered into by the Indiana state library pursuant to IC 4-1-6-8.
- 11 (17) The identity of any person who contacts the bureau of motor  
 12 vehicles concerning the ability of a driver to operate a motor  
 13 vehicle safely and the medical records and evaluations made by  
 14 the bureau of motor vehicles staff or members of the driver  
 15 licensing medical advisory board regarding the ability of a driver  
 16 to operate a motor vehicle safely. However, upon written request  
 17 to the commissioner of the bureau of motor vehicles, the driver  
 18 must be given copies of the driver's medical records and  
 19 evaluations.
- 20 (18) School safety and security measures, plans, and systems,  
 21 including emergency preparedness plans developed under 511  
 22 IAC 6.1-2-2.5.
- 23 (19) A record or a part of a record, the public disclosure of which  
 24 would have a reasonable likelihood of threatening public safety  
 25 by exposing a vulnerability to terrorist attack. A record described  
 26 under this subdivision includes:
- 27 (A) a record assembled, prepared, or maintained to prevent,  
 28 mitigate, or respond to an act of terrorism under IC 35-47-12-1  
 29 or an act of agricultural terrorism under IC 35-47-12-2;
  - 30 (B) vulnerability assessments;
  - 31 (C) risk planning documents;
  - 32 (D) needs assessments;
  - 33 (E) threat assessments;
  - 34 (F) intelligence assessments;
  - 35 (G) domestic preparedness strategies;
  - 36 (H) the location of community drinking water wells and  
 37 surface water intakes;
  - 38 (I) the emergency contact information of emergency  
 39 responders and volunteers;
  - 40 (J) infrastructure records that disclose the configuration of  
 41 critical systems such as communication, electrical, ventilation,  
 42 water, and wastewater systems; and
  - 43 (K) detailed drawings or specifications of structural elements,  
 44 floor plans, and operating, utility, or security systems, whether  
 45 in paper or electronic form, of any building or facility located  
 46 on an airport (as defined in IC 8-21-1-1) that is owned,  
 47 occupied, leased, or maintained by a public agency. A record  
 48 described in this clause may not be released for public  
 49 inspection by any public agency without the prior approval of  
 50 the public agency that owns, occupies, leases, or maintains the  
 51 airport. The public agency that owns, occupies, leases, or

- 1 maintains the airport:
- 2 (i) is responsible for determining whether the public
- 3 disclosure of a record or a part of a record has a reasonable
- 4 likelihood of threatening public safety by exposing a
- 5 vulnerability to terrorist attack; and
- 6 (ii) must identify a record described under item (i) and
- 7 clearly mark the record as "confidential and not subject to
- 8 public disclosure under IC 5-14-3-4(b)(19)(J) without
- 9 approval of (insert name of submitting public agency)".
- 10 This subdivision does not apply to a record or portion of a record
- 11 pertaining to a location or structure owned or protected by a
- 12 public agency in the event that an act of terrorism under
- 13 IC 35-47-12-1 or an act of agricultural terrorism under
- 14 IC 35-47-12-2 has occurred at that location or structure, unless
- 15 release of the record or portion of the record would have a
- 16 reasonable likelihood of threatening public safety by exposing a
- 17 vulnerability of other locations or structures to terrorist attack.
- 18 (20) The following personal information concerning a customer
- 19 of a municipally owned utility (as defined in IC 8-1-2-1):
- 20 (A) Telephone number.
- 21 (B) Address.
- 22 (C) Social Security number.
- 23 (21) The following personal information about a complainant
- 24 contained in records of a law enforcement agency:
- 25 (A) Telephone number.
- 26 (B) The complainant's address. However, if the complainant's
- 27 address is the location of the suspected crime, infraction,
- 28 accident, or complaint reported, the address shall be made
- 29 available for public inspection and copying.
- 30 (22) Notwithstanding subdivision (8)(A), the name,
- 31 compensation, job title, business address, business telephone
- 32 number, job description, education and training background,
- 33 previous work experience, or dates of first employment of a law
- 34 enforcement officer who is operating in an undercover capacity.
- 35 (23) Records requested by an offender that:
- 36 (A) contain personal information relating to:
- 37 (i) a correctional officer (as defined in IC 5-10-10-1.5);
- 38 (ii) the victim of a crime; or
- 39 (iii) a family member of a correctional officer or the victim
- 40 of a crime; or
- 41 (B) concern or could affect the security of a jail or correctional
- 42 facility.
- 43 (c) Nothing contained in subsection (b) shall limit or affect the right
- 44 of a person to inspect and copy a public record required or directed to
- 45 be made by any statute or by any rule of a public agency.
- 46 (d) Notwithstanding any other law, a public record that is classified
- 47 as confidential, other than a record concerning an adoption **or patient**
- 48 **medical records**, shall be made available for inspection and copying
- 49 seventy-five (75) years after the creation of that record.
- 50 (e) **Only the content of a public record may form the basis for**
- 51 **the adoption by any public agency of a rule or procedure creating**

1 **an exception from disclosure under this section.**

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

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

10 ~~(e)~~ **(h)** Notwithstanding subsection (d) and section 7 of this chapter:

11 (1) public records subject to IC 5-15 may be destroyed only in  
 12 accordance with record retention schedules under IC 5-15; or

13 (2) public records not subject to IC 5-15 may be destroyed in the  
 14 ordinary course of business.

15 SECTION 2. IC 8-1-19.5-6 IS AMENDED TO READ AS  
 16 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 6. As used in this  
 17 chapter, "human services" means services provided by government or  
 18 nonprofit organizations to ensure the health and well-being of Indiana  
 19 citizens. The term includes services designed to:

20 **(1) provide relief or assistance after a natural or nonnatural**  
 21 **disaster; and**

22 **(2) assist parents with stress issues.**

23 SECTION 3. IC 8-1-19.5-9.5 IS ADDED TO THE INDIANA  
 24 CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
 25 [EFFECTIVE JULY 1, 2010]: **Sec. 9.5. A recognized 211 service**  
 26 **provider shall provide assistance with parental stress issues if**  
 27 **requested by a person calling 211.**

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

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

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

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

50 (3) If the test is done on blood collected or tested anonymously as  
 51 part of an epidemiologic survey under IC 16-41-2-3 or

1 IC 16-41-17-10(a)(5).

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

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

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

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

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

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

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

16 (A) Chancroid.

17 (B) Chlamydia.

18 (C) Gonorrhea.

19 (D) Hepatitis.

20 (E) Human immunodeficiency virus (HIV).

21 (F) Lymphogranuloma venereum.

22 (G) Syphilis.

23 (H) Tuberculosis.

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

29 ~~(b)~~ **(c)** This subsection applies only to a defendant who has been  
30 charged with a potentially disease transmitting offense. At the request  
31 of an alleged victim of the offense, the parent, guardian, or custodian  
32 of an alleged victim who is less than eighteen (18) years of age, or the  
33 parent, guardian, or custodian of an alleged victim who is an  
34 endangered adult (as defined in IC 12-10-3-2), the prosecuting attorney  
35 shall petition a court to order a defendant charged with the commission  
36 of a potentially disease transmitting offense to submit to a screening  
37 test to determine whether the defendant is infected with a dangerous  
38 disease. In the petition, the prosecuting attorney must set forth  
39 information demonstrating that the defendant has committed a  
40 potentially disease transmitting offense. The court shall set the matter  
41 for hearing not later than forty-eight (48) hours after the prosecuting  
42 attorney files a petition under this subsection. The alleged victim, the  
43 parent, guardian, or custodian of an alleged victim who is less than  
44 eighteen (18) years of age, and the parent, guardian, or custodian of an  
45 alleged victim who is an endangered adult (as defined in IC 12-10-3-2)  
46 are entitled to receive notice of the hearing and are entitled to attend  
47 the hearing. The defendant and the defendant's counsel are entitled to  
48 receive notice of the hearing and are entitled to attend the hearing. If,  
49 following the hearing, the court finds probable cause to believe that the  
50 defendant has committed a potentially disease transmitting offense, the  
51 court may order the defendant to submit to a screening test for one (1)

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

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

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

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

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

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

51 ~~(f)~~ **(g)** The results of a screening test conducted under this section

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

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

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

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

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

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

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

35 ~~(j)~~ **(k)** A person that knowingly or intentionally:

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

40 commits a Class B misdemeanor.

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

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

1 tested for the human immunodeficiency virus (HIV).

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

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

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

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

16 SECTION 7. IC 25-15-2-24 IS ADDED TO THE INDIANA CODE  
17 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
18 1, 2010]: Sec. 24. "Protection order" means an injunction or other  
19 order issued by a tribunal of the issuing state or Indian tribe to  
20 prevent an individual from:

- 21 (1) engaging in violent or threatening acts against;
- 22 (2) engaging in harassment of;
- 23 (3) engaging in contact or communication with; or
- 24 (4) being in physical proximity to;

25 another person. The term includes temporary and final orders  
26 issued by civil and criminal courts.

27 SECTION 8. IC 25-15-9-18, AS AMENDED BY P.L.143-2009,  
28 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
29 JULY 1, 2010]: Sec. 18. (a) Except as provided in subsection (b), the  
30 following persons, in the order of priority indicated, have the authority  
31 to designate the manner, type, and selection of the final disposition and  
32 interment of human remains:

- 33 (1) An individual granted the authority in a funeral planning  
34 declaration executed by the decedent under IC 29-2-19.
- 35 (2) An individual granted the authority in a health care power of  
36 attorney executed by the decedent under IC 30-5-5-16.
- 37 (3) The individual who was the spouse of the decedent at the time  
38 of the decedent's death.
- 39 (4) The decedent's surviving adult child. If more than one (1)  
40 adult child is surviving, any adult child who confirms in writing  
41 that the other adult children have been notified, unless the  
42 licensed funeral director or licensed funeral home receives a  
43 written objection from another adult child.
- 44 (5) The decedent's surviving parent. If the decedent is survived by  
45 both parents, either parent has the authority unless the licensed  
46 funeral director or licensed funeral home receives a written  
47 objection from the other parent.
- 48 (6) The individual in the next degree of kinship under IC 29-1-2-1  
49 to inherit the estate of the decedent. If more than one (1)  
50 individual of the same degree survives, any person of that degree  
51 has the authority unless the licensed funeral director or licensed

- 1 funeral home receives a written objection from one (1) or more  
 2 persons of the same degree.
- 3 (7) In the case of an indigent or other individual whose final  
 4 disposition is the responsibility of the state or township, the  
 5 following:
- 6 (A) If none of the persons identified in subdivisions (1)  
 7 through (6) is available:
- 8 (i) a public administrator, including a responsible township  
 9 trustee or the trustee's designee; or  
 10 (ii) the coroner.
- 11 (B) A state appointed guardian.
- 12 (b) If:
- 13 (1) the death of the decedent appears to have been the result of:
- 14 (A) murder (IC 35-42-1-1);  
 15 (B) voluntary manslaughter (IC 35-42-1-3); or  
 16 (C) another criminal act, if the death does not result from the  
 17 operation of a vehicle; and
- 18 (2) the coroner, in consultation with the law enforcement agency  
 19 investigating the death of the decedent, determines that there is a  
 20 reasonable suspicion that a person described in subsection (a)  
 21 committed the offense;
- 22 the person referred to in subdivision (2) may not authorize or designate  
 23 the manner, type, or selection of the final disposition and interment of  
 24 human remains.
- 25 (c) The coroner, in consultation with the law enforcement agency  
 26 investigating the death of the decedent, shall inform the cemetery  
 27 owner or crematory authority of the determination under subsection  
 28 (b)(2).
- 29 **(d) If the decedent had filed a protection order against a person**  
 30 **described in subsection (a) and the protection order is currently in**  
 31 **effect, the person described in subsection (a) may not authorize or**  
 32 **designate the manner, type, or selection of the final disposition and**  
 33 **interment of human remains.**
- 34 **(e) A law enforcement agency shall determine if the protection**  
 35 **order is in effect. If the law enforcement agency cannot determine**  
 36 **the existence of a protection order that is in effect, the law**  
 37 **enforcement agency shall consult the protective order registry**  
 38 **established under IC 5-2-9-5.5.**
- 39 SECTION 9. IC 35-33-8-3.2, AS AMENDED BY P.L.111-2009,  
 40 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 41 JULY 1, 2010]: Sec. 3.2. (a) A court may admit a defendant to bail and  
 42 impose any of the following conditions to assure the defendant's  
 43 appearance at any stage of the legal proceedings, or, upon a showing  
 44 of clear and convincing evidence that the defendant poses a risk of  
 45 physical danger to another person or the community, to assure the  
 46 public's physical safety:
- 47 (1) Require the defendant to:
- 48 (A) execute a bail bond with sufficient solvent sureties;  
 49 (B) deposit cash or securities in an amount equal to the bail;  
 50 (C) execute a bond secured by real estate in the county, where  
 51 thirty-three hundredths (0.33) of the true tax value less

- 1 encumbrances is at least equal to the amount of the bail;
- 2 (D) post a real estate bond; or
- 3 (E) perform any combination of the requirements described in
- 4 clauses (A) through (D).

5 If the court requires the defendant to deposit cash or cash and  
 6 another form of security as bail, the court may require the  
 7 defendant and each person who makes the deposit on behalf of the  
 8 defendant to execute an agreement that allows the court to retain  
 9 all or a part of the cash to pay publicly paid costs of  
 10 representation and fines, costs, fees, and restitution that the court  
 11 may order the defendant to pay if the defendant is convicted. The  
 12 defendant must also pay the fee required by subsection (d).

- 13 (2) Require the defendant to execute:
  - 14 (A) a bail bond by depositing cash or securities with the clerk
  - 15 of the court in an amount not less than ten percent (10%) of
  - 16 the bail; and
  - 17 (B) an agreement that allows the court to retain all or a part of
  - 18 the cash or securities to pay fines, costs, fees, and restitution
  - 19 that the court may order the defendant to pay if the defendant
  - 20 is convicted.

21 A portion of the deposit, not to exceed ten percent (10%) of the  
 22 monetary value of the deposit or fifty dollars (\$50), whichever is  
 23 the lesser amount, may be retained as an administrative fee. The  
 24 clerk shall also retain from the deposit under this subdivision  
 25 fines, costs, fees, and restitution as ordered by the court, publicly  
 26 paid costs of representation that shall be disposed of in  
 27 accordance with subsection (b), and the fee required by  
 28 subsection (d). In the event of the posting of a real estate bond,  
 29 the bond shall be used only to insure the presence of the  
 30 defendant at any stage of the legal proceedings, but shall not be  
 31 foreclosed for the payment of fines, costs, fees, or restitution. The  
 32 individual posting bail for the defendant or the defendant  
 33 admitted to bail under this subdivision must be notified by the  
 34 sheriff, court, or clerk that the defendant's deposit may be  
 35 forfeited under section 7 of this chapter or retained under  
 36 subsection (b).

- 37 (3) Impose reasonable restrictions on the activities, movements,
- 38 associations, and residence of the defendant during the period of
- 39 release.

- 40 (4) **Except as provided in section 3.6 of this chapter**, require the
- 41 defendant to refrain from any direct or indirect contact with an
- 42 individual and, if the defendant has been charged with an offense
- 43 under IC 35-46-3, any animal belonging to the individual,
- 44 including if the defendant has not been released from lawful
- 45 detention.

- 46 (5) Place the defendant under the reasonable supervision of a
- 47 probation officer, pretrial services agency, or other appropriate
- 48 public official. If the court places the defendant under the
- 49 supervision of a probation officer or pretrial services agency, the
- 50 court shall determine whether the defendant must pay the pretrial
- 51 services fee under section 3.3 of this chapter.

1 (6) Release the defendant into the care of a qualified person or  
 2 organization responsible for supervising the defendant and  
 3 assisting the defendant in appearing in court. The supervisor shall  
 4 maintain reasonable contact with the defendant in order to assist  
 5 the defendant in making arrangements to appear in court and,  
 6 where appropriate, shall accompany the defendant to court. The  
 7 supervisor need not be financially responsible for the defendant.

8 (7) Release the defendant on personal recognizance unless:

9 (A) the state presents evidence relevant to a risk by the  
 10 defendant:

11 (i) of nonappearance; or

12 (ii) to the physical safety of the public; and

13 (B) the court finds by a preponderance of the evidence that the  
 14 risk exists.

15 (8) Require a defendant charged with an offense under IC 35-46-3  
 16 to refrain from owning, harboring, or training an animal.

17 (9) Impose any other reasonable restrictions designed to assure  
 18 the defendant's presence in court or the physical safety of another  
 19 person or the community.

20 (b) Within thirty (30) days after disposition of the charges against  
 21 the defendant, the court that admitted the defendant to bail shall order  
 22 the clerk to remit the amount of the deposit remaining under subsection  
 23 (a)(2) to the defendant. The portion of the deposit that is not remitted  
 24 to the defendant shall be deposited by the clerk in the supplemental  
 25 public defender services fund established under IC 33-40-3.

26 (c) For purposes of subsection (b), "disposition" occurs when the  
 27 indictment or information is dismissed or the defendant is acquitted or  
 28 convicted of the charges.

29 (d) Except as provided in subsection (e), the clerk of the court shall:

30 (1) collect a fee of five dollars (\$5) from each bond or deposit  
 31 required under subsection (a)(1); and

32 (2) retain a fee of five dollars (\$5) from each deposit under  
 33 subsection (a)(2).

34 The clerk of the court shall semiannually remit the fees collected under  
 35 this subsection to the board of trustees of the public employees'  
 36 retirement fund for deposit in the special death benefit fund. The fee  
 37 required by subdivision (2) is in addition to the administrative fee  
 38 retained under subsection (a)(2).

39 (e) With the approval of the clerk of the court, the county sheriff  
 40 may collect the bail posted under this section. The county sheriff shall  
 41 remit the bail to the clerk of the court by the following business day  
 42 and remit monthly the five dollar (\$5) special death benefit fee to the  
 43 county auditor.

44 (f) When a court imposes a condition of bail described in subsection  
 45 (a)(4):

46 (1) the clerk of the court shall comply with IC 5-2-9; and

47 (2) the prosecuting attorney shall file a confidential form  
 48 prescribed or approved by the division of state court  
 49 administration with the clerk.

50 SECTION 10. IC 35-33-8-3.6 IS ADDED TO THE INDIANA  
 51 CODE AS A **NEW** SECTION TO READ AS FOLLOWS

1 [EFFECTIVE JULY 1, 2010]: **Sec. 3.6. (a) This section applies only**  
 2 **to a defendant who is charged with committing a violent crime (as**  
 3 **defined in IC 5-2-6.1-8) that results in bodily injury to a person.**

4 **(b) If a court releases a defendant described in subsection (a) to**  
 5 **bail without holding a bail hearing in open court, the court shall**  
 6 **include as a condition of bail the requirement that the defendant**  
 7 **refrain from any direct or indirect contact with the victim:**

8 **(1) for ten (10) days after release; or**

9 **(2) until the initial hearing;**

10 **whichever occurs first.**

11 **(c) At the initial hearing, the court may reinstate or modify the**  
 12 **condition that the defendant refrain from direct or indirect contact**  
 13 **with the victim.**

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

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

23 SECTION 13. IC 35-46-1-15.1, AS AMENDED BY P.L.104-2008,  
 24 SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 25 JULY 1, 2010]: **Sec. 15.1. A person who knowingly or intentionally**  
 26 **violates:**

27 **(1) a protective order to prevent domestic or family violence**  
 28 **issued under IC 34-26-5 (or, if the order involved a family or**  
 29 **household member, under IC 34-26-2 or IC 34-4-5.1-5 before**  
 30 **their repeal);**

31 **(2) an ex parte protective order issued under IC 34-26-5 (or, if the**  
 32 **order involved a family or household member, an emergency**  
 33 **order issued under IC 34-26-2 or IC 34-4-5.1 before their repeal);**

34 **(3) a workplace violence restraining order issued under**  
 35 **IC 34-26-6;**

36 **(4) a no contact order in a dispositional decree issued under**  
 37 **IC 31-34-20-1, IC 31-37-19-1, or IC 31-37-5-6 (or IC 31-6-4-15.4**  
 38 **or IC 31-6-4-15.9 before their repeal) or an order issued under**  
 39 **IC 31-32-13 (or IC 31-6-7-14 before its repeal) that orders the**  
 40 **person to refrain from direct or indirect contact with a child in**  
 41 **need of services or a delinquent child;**

42 **(5) a no contact order issued as a condition of pretrial release,**  
 43 **including release on bail or personal recognizance, or pretrial**  
 44 **diversion, and including a no contact order issued under**  
 45 **IC 35-33-8-3.6;**

46 **(6) a no contact order issued as a condition of probation;**

47 **(7) a protective order to prevent domestic or family violence**  
 48 **issued under IC 31-15-5 (or IC 31-16-5 or IC 31-1-11.5-8.2 before**  
 49 **their repeal);**

50 **(8) a protective order to prevent domestic or family violence**  
 51 **issued under IC 31-14-16-1 in a paternity action;**

- 1 (9) a no contact order issued under IC 31-34-25 in a child in need
- 2 of services proceeding or under IC 31-37-25 in a juvenile
- 3 delinquency proceeding;
- 4 (10) an order issued in another state that is substantially similar
- 5 to an order described in subdivisions (1) through (9);
- 6 (11) an order that is substantially similar to an order described in
- 7 subdivisions (1) through (9) and is issued by an Indian:
- 8 (A) tribe;
- 9 (B) band;
- 10 (C) pueblo;
- 11 (D) nation; or
- 12 (E) organized group or community, including an Alaska
- 13 Native village or regional or village corporation as defined in
- 14 or established under the Alaska Native Claims Settlement Act
- 15 (43 U.S.C. 1601 et seq.);
- 16 that is recognized as eligible for the special programs and services
- 17 provided by the United States to Indians because of their special
- 18 status as Indians;
- 19 (12) an order issued under IC 35-33-8-3.2; or
- 20 (13) an order issued under IC 35-38-1-30;

21 commits invasion of privacy, a Class A misdemeanor. However, the  
 22 offense is a Class D felony if the person has a prior unrelated  
 23 conviction for an offense under this section.

24 SECTION 15. IC 35-48-7-8.1, AS AMENDED BY  
 25 P.L.182-2009(ss), SECTION 399, IS AMENDED TO READ AS  
 26 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 8.1. ~~(a) This section~~  
 27 ~~applies after June 30, 2007.~~

28 ~~(b)~~ **(a)** The advisory committee shall provide for a controlled  
 29 substance prescription monitoring program that includes the following  
 30 components:

- 31 (1) Each time a controlled substance designated by the advisory
- 32 committee under IC 35-48-2-5 through IC 35-48-2-10 is
- 33 dispensed, the dispenser shall transmit to the INSPECT program
- 34 the following information:
- 35 (A) The controlled substance recipient's name.
- 36 (B) The controlled substance recipient's or the recipient
- 37 representative's identification number or the identification
- 38 number or phrase designated by the INSPECT program.
- 39 (C) The controlled substance recipient's date of birth.
- 40 (D) The national drug code number of the controlled substance
- 41 dispensed.
- 42 (E) The date the controlled substance is dispensed.
- 43 (F) The quantity of the controlled substance dispensed.
- 44 (G) The number of days of supply dispensed.
- 45 (H) The dispenser's United States Drug Enforcement Agency
- 46 registration number.
- 47 (I) The prescriber's United States Drug Enforcement Agency
- 48 registration number.
- 49 (J) An indication as to whether the prescription was
- 50 transmitted to the pharmacist orally or in writing.
- 51 (K) Other data required by the advisory committee.

1 (2) The information required to be transmitted under this section  
 2 must be transmitted not more than seven (7) days after the date on  
 3 which a controlled substance is dispensed.

4 (3) A dispenser shall transmit the information required under this  
 5 section by:

6 (A) uploading to the INSPECT web site;

7 (B) a computer diskette; or

8 (C) a CD-ROM disk;

9 that meets specifications prescribed by the advisory committee.

10 (4) The advisory committee may require that prescriptions for  
 11 controlled substances be written on a one (1) part form that  
 12 cannot be duplicated. However, the advisory committee may not  
 13 apply such a requirement to prescriptions filled at a pharmacy  
 14 with a Type II permit (as described in IC 25-26-13-17) and  
 15 operated by a hospital licensed under IC 16-21, or prescriptions  
 16 ordered for and dispensed to bona fide enrolled patients in  
 17 facilities licensed under IC 16-28. The committee may not require  
 18 multiple copy prescription forms for any prescriptions written.  
 19 The advisory committee may not require different prescription  
 20 forms for any individual drug or group of drugs. Prescription  
 21 forms required under this subdivision must be jointly approved by  
 22 the committee and by the Indiana board of pharmacy established  
 23 by IC 25-26-13-3.

24 (5) The costs of the program.

25 **(b) This subsection applies only to a retail pharmacy. A**  
 26 **pharmacist, pharmacy technician, or person authorized by a**  
 27 **pharmacist to dispense a controlled substance may not dispense a**  
 28 **controlled substance to a person who is not personally known to**  
 29 **the pharmacist, pharmacy technician, or person authorized by a**  
 30 **pharmacist to dispense a controlled substance unless the person**  
 31 **taking possession of the controlled substance provides documented**  
 32 **proof of the person's identification to the pharmacist, pharmacy**  
 33 **technician, or person authorized by a pharmacist to dispense a**  
 34 **controlled substance.**

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

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

40 **Sec. 1. (a) At the time of sentencing for a person convicted of**  
 41 **domestic battery under IC 35-42-2-1.3 or a crime that involved**  
 42 **domestic abuse, neglect, or violence, the court may require the**  
 43 **person to complete a batterer's intervention program approved by**  
 44 **the court.**

45 **(b) The person convicted of domestic battery or another crime**  
 46 **described in subsection (a) shall pay all expenses of the batterer's**  
 47 **intervention program.**

48 **(c) The batterer's intervention program must be a certified**  
 49 **intervention program.**

50 SECTION 18. [EFFECTIVE UPON PASSAGE] **(a) Before May 1,**  
 51 **2010, the criminal justice institute shall notify the United States**

1 **Department of Justice concerning the passage of this act, including**  
2 **IC 16-41-8-6, as added by this act, and certify, under 42 U.S.C.**  
3 **3796hh, the provisions of this act.**

4 **(b) This SECTION expires December 1, 2010.**

5 **SECTION 19. An emergency is declared for this act.**

(Reference is to EHB 1234 as reprinted February 19, 2010.)

**Conference Committee Report**  
**on**  
**Engrossed House Bill 1234**

**S**igned by:

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Representative Reske  
Chairperson

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Senator Becker

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Representative Foley

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Senator Lanane

**House Conferees**

**Senate Conferees**