
HOUSE BILL No. 1447

DIGEST OF INTRODUCED BILL

Citations Affected: IC 16-35-9; IC 31-33-11.5.

Synopsis: Maternal and newborn drug screening. Establishes a maternal and newborn drug screening protocol to standardize testing of: (1) maternal patients for drug use during pregnancy; and (2) drug impaired newborns. Establishes the purposes of the drug screening protocol. Lists factors for a physician to consider in deciding whether to order maternal or newborn drug testing. Specifies that no single indicator justifies maternal or newborn drug testing and that the decision to order the testing must be based on the physician's best medical judgment after considering the totality of the circumstances. Requires the department of child services to do the following: (1) Develop procedures for child abuse and neglect investigations involving drug impaired fetuses and newborns. (2) Implement a plan to establish response teams for drug impaired fetuses and newborns throughout Indiana. Provides that whenever a child abuse or neglect case involves a drug impaired fetus or newborn, the county office of family and children shall require the mother of the fetus or newborn to participate in a substance abuse treatment plan. Requires the response team for drug impaired infants to meet on a regular basis to: (1) review the status of the treatment plan and the progress of the family; and (2) recommend changes, if any. Requires the county office of family and children to file a child in need of services petition if the mother refuses to voluntarily cooperate with the treatment plan.

Effective: July 1, 2011.

Cheatham

January 18, 2011, read first time and referred to Committee on Family, Children and Human Affairs.

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First Regular Session 117th General Assembly (2011)

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 2010 Regular Session of the General Assembly.

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HOUSE BILL No. 1447



A BILL FOR AN ACT to amend the Indiana Code concerning family law and juvenile law.

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

1 SECTION 1. IC 16-35-9 IS ADDED TO THE INDIANA CODE AS
 2 A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
 3 1, 2011]:
 4 **Chapter 9. Protocol for Maternal and Newborn Drug Screening**
 5 **Sec. 1. The maternal and newborn drug screening protocol is**
 6 **established under this chapter to standardize testing of:**
 7 (1) **maternal patients for drug use during pregnancy; and**
 8 (2) **drug impaired newborns.**
 9 **Sec. 2. The protocol is recommended for use in all clinical**
 10 **settings.**
 11 **Sec. 3. The purpose of the maternal drug screening protocol**
 12 **developed under this chapter is:**
 13 (1) **to provide the obstetric and pediatric community with**
 14 **clinical guidelines in an effort to identify maternal patients in**
 15 **need of special management to avoid:**
 16 (A) **maternal medical recovery complications;**
 17 (B) **pediatric postpartum complications; and**



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- (C) other developmental and nutritional deficiencies; and
- (2) to provide a consistent approach to identifying factors that suggest the likelihood of drug abuse during pregnancy to aid in:
 - (A) the specific medical management of the newborn; and
 - (B) the initiation of appropriate developmental and social follow-up of the newborn.

Sec. 4. Any of the following factors may indicate the need for maternal drug testing:

- (1) No prenatal care.
- (2) Late or limited prenatal care.
- (3) Suspicious maternal behavior consistent with drug usage.
- (4) Unexplained placental abruption.
- (5) Preterm labor of no obvious cause.
- (6) Intrauterine growth retardation (IUGR) with no obvious cause.
- (7) Previous known drug or alcohol abuse.
- (8) Unexplained intrauterine fetal demise.
- (9) Fetal heart rate or uterine contraction pattern consistent with a hypertonic or hypercontractile uterus.

Sec. 5. Any of the following factors may indicate the need for newborn drug testing:

- (1) Neurological symptoms such as restlessness, tremors, sleep disorders, convulsions, irritability, hypertonicity, hypotonicity, hyperactivity, clonus, staring episodes, or nystagmus.
- (2) Gastrointestinal symptoms such as poor feeding, vomiting, diarrhea, abdominal distention, or increased sucking.
- (3) Autonomic symptoms such as a high pitched cry, sneezing, nasal discharge, skin abrasions, or unexplained rapid breathing.

Sec. 6. (a) No single indicator or group of indicators necessarily justifies ordering the maternal or newborn drug testing. The attending physician's best medical judgment based on the totality of the circumstances surrounding a maternal or newborn patient's history and medical condition must be considered in determining whether a specific case warrants the invocation of the protocol under this chapter.

(b) The list of factors in sections 4 and 5 of this chapter is not an all inclusive list, and other signs and symptoms may indicate the need for maternal or newborn drug testing depending on the specific clinical situation.

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Sec. 7. If maternal or newborn drug testing is ordered, the attending physician shall document in the medical record the reason that the testing is ordered.

Sec. 8. The maternal or newborn testing must screen for cocaine, lysergic acid diethylamide (LSD), heroin, amphetamines, marijuana, and their derivatives.

Sec. 9. (a) If a pregnant woman or newborn tests positive for drugs, the attending physician shall report the woman to the county office of family and children for placement in a substance abuse treatment program in accordance with IC 31-33-11.5.

(b) The physician shall take all steps necessary, including the use of a chain of custody, to preserve any corroborating evidence indicating possible child abuse or neglect.

SECTION 2. IC 31-33-11.5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]:

Chapter 11.5. Treatment Response for Drug Impaired Fetuses and Newborns

Sec. 1. The department shall do the following:

- (1) Develop procedures to be followed in child abuse and neglect cases involving drug impaired fetuses and newborns.**
- (2) Implement a plan to establish response teams for drug impaired fetuses and newborns throughout Indiana.**

Sec. 2. Whenever child abuse or neglect is alleged involving a case of a drug impaired fetus or newborn, the county office of family and children may contact the response team for drug impaired fetuses and newborns and schedule an immediate meeting.

Sec. 3. Whenever the county office of family and children substantiates child abuse or neglect involving a drug impaired fetus or newborn, the county office of family and children shall take steps necessary and reasonable:

- (1) to protect the health and welfare of the fetus or newborn;**
- and**
- (2) to effectuate substance abuse treatment for the mother and other household members.**

Sec. 4. The mother's success with the treatment plan is not dependent upon:

- (1) the success or failure of any other household member who may have a substance abuse problem;**
- (2) the absence of treatment resources in the mother's county;**
- or**

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1 **(3) the mother's inability to pay for the treatment.**
 2 **Sec. 5. The county office of family and children shall encourage**
 3 **the mother's voluntary acceptance of necessary treatment plans**
 4 **related to:**
 5 **(1) the mother's abuse of controlled substances; and**
 6 **(2) educational services regarding the effects of abuse of the**
 7 **fetus or newborn.**
 8 **Sec. 6. As part of a treatment plan under section 5 of this**
 9 **chapter, the county office of family and children shall require that**
 10 **the mother submit to random testing for controlled substances.**
 11 **Sec. 7. The response team for drug impaired fetuses and**
 12 **newborns shall meet on a regular basis to:**
 13 **(1) review the status of the treatment plan;**
 14 **(2) review the mother's progress; and**
 15 **(3) recommend any changes, if necessary.**
 16 **Sec. 8. If the mother refuses to voluntarily cooperate with the**
 17 **treatment plans, the county office of family and children shall file**
 18 **a child in need of services petition.**

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