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# HOUSE BILL No. 1458

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 9-30-6-6.

**Synopsis:** Admissibility of blood tests. Authorizes a person trained in obtaining bodily substance samples and acting under the direction of a physician or under a protocol prepared by a physician, hospital, facility operating under a hospital's license, or laboratory to perform chemical tests for use in a criminal investigation. Makes conforming amendments.

**Effective:** July 1, 2011.

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**DeLaney**

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January 20, 2011, read first time and referred to Committee on Courts and Criminal Code.

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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. 1458



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 9-30-6-6, AS AMENDED BY P.L.36-2010,  
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2011]: Sec. 6. (a) A physician or a person trained in obtaining  
4 bodily substance samples and acting under the direction of **a physician**  
5 or under a protocol prepared by a physician, **hospital (including a**  
6 **facility operating under a hospital's license), or laboratory** who:  
7 (1) obtains a blood, urine, or other bodily substance sample from  
8 a person, regardless of whether the sample is taken for diagnostic  
9 purposes or at the request of a law enforcement officer under this  
10 section; or  
11 (2) performs a chemical test on blood, urine, or other bodily  
12 substance obtained from a person;  
13 shall deliver the sample or disclose the results of the test to a law  
14 enforcement officer who requests the sample or results as a part of a  
15 criminal investigation. Samples and test results shall be provided to a  
16 law enforcement officer even if the person has not consented to or  
17 otherwise authorized their release.



1 (b) A physician, a hospital, ~~or~~ an agent of a physician or hospital  
2 **(including a facility operating under a hospital's license), or a**  
3 **laboratory** is not civilly or criminally liable for any of the following:  
4 (1) Disclosing test results in accordance with this section.  
5 (2) Delivering a blood, urine, or other bodily substance sample in  
6 accordance with this section.  
7 (3) Obtaining a blood, urine, or other bodily substance sample in  
8 accordance with this section.  
9 (4) Disclosing to the prosecuting attorney or the deputy  
10 prosecuting attorney for use at or testifying at the criminal trial of  
11 the person as to facts observed or opinions formed.  
12 (5) Failing to treat a person from whom a blood, urine, or other  
13 bodily substance sample is obtained at the request of a law  
14 enforcement officer if the person declines treatment.  
15 (6) Injury to a person arising from the performance of duties in  
16 good faith under this section.  
17 (c) For the purposes of this chapter, IC 9-30-5, or IC 9-30-9:  
18 (1) the privileges arising from a patient-physician relationship do  
19 not apply to the samples, test results, or testimony described in  
20 this section; and  
21 (2) samples, test results, and testimony may be admitted in a  
22 proceeding in accordance with the applicable rules of evidence.  
23 (d) The exceptions to the patient-physician relationship specified in  
24 subsection (c) do not affect those relationships in a proceeding not  
25 covered by this chapter, IC 9-30-5, or IC 9-30-9.  
26 (e) The test results and samples obtained by a law enforcement  
27 officer under subsection (a) may be disclosed only to a prosecuting  
28 attorney or a deputy prosecuting attorney for use as evidence in a  
29 criminal proceeding under this chapter, IC 9-30-5, or IC 9-30-9.  
30 (f) This section does not require a physician or a person under the  
31 direction of a physician to perform a chemical test.  
32 (g) A physician or a person trained in obtaining bodily substance  
33 samples and acting under the direction of **a physician** or under a  
34 protocol prepared by a physician, **hospital (including a facility**  
35 **operating under a hospital's license), or laboratory** shall obtain a  
36 blood, urine, or other bodily substance sample if the following exist:  
37 (1) A law enforcement officer requests that the sample be  
38 obtained.  
39 (2) The law enforcement officer has certified in writing the  
40 following:  
41 (A) That the officer has probable cause to believe the person  
42 from whom the sample is to be obtained has violated

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1 IC 9-30-5.  
 2 (B) That the person from whom the sample is to be obtained  
 3 has been involved in a motor vehicle accident that resulted in  
 4 the serious bodily injury or death of another.  
 5 (C) That the accident that caused the serious bodily injury or  
 6 death of another occurred not more than three (3) hours before  
 7 the time the sample is requested.  
 8 (3) Not more than the use of reasonable force is necessary to  
 9 obtain the sample.  
 10 (h) If the person:  
 11 (1) from whom the bodily substance sample is to be obtained  
 12 under this section does not consent; and  
 13 (2) resists the taking of a sample;  
 14 the law enforcement officer may use reasonable force to assist an  
 15 individual, who must be authorized under this section to obtain a  
 16 sample, in the taking of the sample.  
 17 (i) The person authorized under this section to obtain a bodily  
 18 substance sample shall take the sample in a medically accepted  
 19 manner.  
 20 (j) This subsection does not apply to a bodily substance sample  
 21 taken at a licensed hospital (as defined in IC 16-18-2-179(a) and  
 22 IC 16-18-2-179(b)), **a facility operating under a hospital's license,**  
 23 **or a laboratory.** A law enforcement officer may transport the person  
 24 to a place where the sample may be obtained by any of the following  
 25 persons who are trained in obtaining bodily substance samples and who  
 26 have been engaged to obtain samples under this section:  
 27 (1) A physician holding an unlimited license to practice medicine  
 28 or osteopathy.  
 29 (2) A registered nurse.  
 30 (3) A licensed practical nurse.  
 31 (4) An emergency medical technician-basic advanced (as defined  
 32 in IC 16-18-2-112.5).  
 33 (5) An emergency medical technician-intermediate (as defined in  
 34 IC 16-18-2-112.7).  
 35 (6) A paramedic (as defined in IC 16-18-2-266).  
 36 **(7) A person trained in obtaining bodily substance samples**  
 37 **and acting under the direction of a physician or under a**  
 38 **protocol prepared by a physician, hospital, facility operating**  
 39 **under a hospital's license, or laboratory.**

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