



Reprinted
February 16, 2011

SENATE BILL No. 581

DIGEST OF SB 581 (Updated February 15, 2011 4:06 pm - DI 104)

Citations Affected: IC 16-41.

Synopsis: HIV testing of pregnant women. Requires oral or written consent by a pregnant woman to have HIV testing to be documented in the pregnant woman's medical chart instead of requiring a written statement of consent.

Effective: July 1, 2011.

Becker, Leising, Breaux

January 20, 2011, read first time and referred to Committee on Health and Provider Services.
February 10, 2011, amended, reported favorably — Do Pass.
February 15, 2011, read second time, amended, ordered engrossed.

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SB 581—LS 6934/DI 104+



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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SENATE BILL No. 581

A BILL FOR AN ACT to amend the Indiana Code concerning health.

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

- 1 SECTION 1. IC 16-41-6-8 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 8. (a) This section
3 applies to a physician or an advanced practice nurse who orders an HIV
4 test under section 5 or 6 of this chapter or to the physician's or nurse's
5 designee.
- 6 (b) An individual described in subsection (a) shall:
7 (1) inform the pregnant woman that:
8 (A) the individual is required by law to order an HIV test
9 unless the pregnant woman refuses; and
10 (B) the pregnant woman has a right to refuse the test; and
11 (2) explain to the pregnant woman:
12 (A) the purpose of the test; and
13 (B) the risks and benefits of the test.
- 14 (c) An individual described in subsection (a) shall document in the
15 pregnant woman's medical records that the pregnant woman received
16 the information required under subsection (b).
- 17 (d) If a pregnant woman refuses to consent to an HIV test, the

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1 refusal must be noted **by an individual described in subsection (a)** in
 2 the pregnant woman's medical records.

3 (e) If a test ordered under section 5 or 6 of this chapter is positive,
 4 an individual described in subsection (a):

5 (1) shall inform the pregnant woman of the test results;
 6 (2) shall inform the pregnant woman of the treatment options or
 7 referral options available to the pregnant woman; and
 8 (3) shall:

9 (A) provide the pregnant woman with a description of the
 10 methods of HIV transmission;

11 (B) discuss risk reduction behavior modifications with the
 12 pregnant woman, including methods to reduce the risk of
 13 perinatal HIV transmission and HIV transmission through
 14 breast milk; and

15 (C) provide the pregnant woman with referral information to
 16 other HIV prevention, health care, and psychosocial services.

17 (f) The provisions of IC 16-41-2-3 apply to a positive HIV test under
 18 section 5 or 6 of this chapter.

19 (g) The results of a test performed under section 5 or 6 of this
 20 chapter are confidential.

21 (h) As a routine component of prenatal care, every individual
 22 described in subsection (a) is required to provide information and
 23 counseling regarding HIV and the standard licensed diagnostic test for
 24 HIV and to offer and recommend the standard licensed diagnostic test
 25 for HIV.

26 (i) An individual described in subsection (a) shall ~~obtain a~~
 27 ~~statement, signed by the pregnant woman, acknowledging that~~
 28 ~~document:~~

29 (1) **the oral or written consent of the pregnant woman to be**
 30 **tested; and**

31 (2) **that** the pregnant woman was counseled and provided the
 32 required information set forth in subsection (b) to ensure that an
 33 informed decision has been made.

34 (j) A pregnant woman who refuses a test under this section must do
 35 so in writing.

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COMMITTEE REPORT

Madam President: The Senate Committee on Health and Provider Services, to which was referred Senate Bill No. 581, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

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

"SECTION 1. IC 16-41-6-1, AS AMENDED BY P.L.94-2010, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: 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~~ **unless** the individual to be tested or a representative as authorized under IC 16-36-1 **has indicated in writing that the individual refuses to consent to the test.** A physician ordering the test or the physician's authorized representative shall document ~~whether or not the~~ **refusal by an individual or the individual's representative. 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 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).".

Page 2, line 26, delete ":".

Page 2, line 27, after "that" insert "**document:**".

Page 2, line 28, delete "document".

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Page 2, line 29, delete "tested in the woman's medical records;" and insert "**tested;**".

Page 2, line 30, delete "document".

Page 2, line 33, reset in roman "must".

Page 2, line 34, delete "may".

Page 2, line 34, delete "orally or".

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 581 as introduced.)

MILLER, Chairperson

Committee Vote: Yeas 8, Nays 0.

SENATE MOTION

Madam President: I move that Senate Bill 581 be amended to read as follows:

Page 1, delete lines 1 through 17.

Page 2, delete lines 1 through 14.

Renumber all SECTIONS consecutively.

(Reference is to SB 581 as printed February 11, 2011.)

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