

## SENATE BILL No. 52

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### DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 16-41-6-1.

**Synopsis:** HIV testing. Allows a physician to screen or test an individual for the antibody or antigen to HIV unless the individual to be tested indicates a refusal to consent to the test in writing. (Current law prohibits a physician from performing the test without the oral or written consent of the individual.) Requires a physician to document a refusal by an individual or the individual's representative. Provides that under certain circumstances, a physician may screen or test an individual for HIV even if the individual has refused in writing to consent to the screening or test. (The introduced version of this bill was prepared by the health finance commission.)

**Effective:** July 1, 2012.

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**Becker, Miller**

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January 4, 2012, read first time and referred to Committee on Health and Provider Services.

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Second Regular Session 117th General Assembly (2012)

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 2011 Regular Session of the General Assembly.

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## SENATE BILL No. 52



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 16-41-6-1, AS AMENDED BY P.L.94-2010,  
 2 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 3 JULY 1, 2012]: Sec. 1. (a) ~~Except as provided in IC 16-41-8-6,~~  
 4 ~~IC 16-41-10-2.5; and subsection (b); a person may not perform Unless~~  
 5 **an individual or the individual's representative (as defined in**  
 6 **IC 16-36-1-2) refuses in writing to have** a screening or confirmatory  
 7 test for the antibody or antigen to HIV ~~without the oral or written~~  
 8 ~~consent of the individual to be tested or a representative as authorized~~  
 9 ~~under IC 16-36-1. A performed, a physician may perform the~~  
 10 **screening or test. The** physician ordering the test or the physician's  
 11 authorized representative shall document whether or not the individual  
 12 has consented. ~~The test for the antibody or antigen to HIV may not be~~  
 13 ~~performed on a woman under section 5 or 6 of this chapter if the~~  
 14 ~~woman refuses under section 7 of this chapter to consent to the test.~~  
 15 **refused.**

16 (b) ~~The~~ **If one (1) of the following conditions exists, a test for the**  
 17 antibody or antigen to HIV may be performed if ~~one (1) of the~~



1 following conditions exists: regardless of the individual's written  
 2 refusal described in subsection (a):  
 3 (1) If ordered by a physician who has obtained a health care  
 4 consent under IC 16-36-1 or an implied consent under emergency  
 5 circumstances and the test is medically necessary to diagnose or  
 6 treat the patient's condition.  
 7 (2) Under a court order based on clear and convincing evidence  
 8 of a serious and present health threat to others posed by an  
 9 individual. A hearing held under this subsection subdivision shall  
 10 be held in camera at the request of the individual.  
 11 (3) If the test is done on blood collected or tested anonymously as  
 12 part of an epidemiologic survey under IC 16-41-2-3 or  
 13 IC 16-41-17-10(a)(5).  
 14 (4) The test is ordered under section 4 of this chapter.  
 15 (5) The test is required or authorized under IC 11-10-3-2.5.  
 16 **(6) The individual upon whom the test will be performed is**  
 17 **described in IC 16-41-8-6 or IC 16-41-10-2.5.**  
 18 ~~(7)~~ (7) A court may order a person has ordered the individual to  
 19 undergo testing for HIV under IC 35-38-1-10.5(a) or  
 20 IC 35-38-2-2.3(a)(16).

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