

COMMITTEE REPORT

Madam President: Pursuant to Joint Rule 20, your Committee on Rules and Legislative Procedure, to which was referred Engrossed House Bill 1200 because it conflicts with SEA 52-2012 without properly recognizing the existence of SEA 52-2012, has had Engrossed House Bill 1200 under consideration and begs leave to report back to the Senate with the recommendation that Engrossed House Bill 1200 be corrected as follows:

- 1 In the conference committee report on EHB 1200, page 7, delete
2 lines 49 through 50, begin a new paragraph and insert:
3 "SECTION 4. IC 16-41-6-1, AS AMENDED BY SEA 52-2012,
4 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
5 JULY 1, 2012]: Sec. 1. (a) As used in this section, "physician's
6 authorized representative" means:
7 (1) an advanced practice nurse (as defined by IC 25-23-1-1(b))
8 who is operating in collaboration with a licensed physician; or
9 (2) an individual acting under the supervision of a licensed
10 physician and within the individual's scope of employment.
11 (b) If a physician or the physician's authorized representative
12 determines that it is medically necessary to conduct an HIV test on an
13 individual under the care of a physician, the physician or physician's
14 authorized representative may order the test if the physician or the
15 physician's authorized representative:
16 (1) informs the patient of the test;
17 (2) provides an explanation of the test; and
18 (3) informs the patient of the patient's right to refuse the test.
19 Subject to subsection (d), if the patient refuses the test, the physician
20 or the physician's authorized representative may not perform the test
21 and shall document the patient's refusal in the patient's medical record.
22 (c) After ordering an HIV test for a patient, the physician or the
23 physician's authorized representative shall:
24 (1) discuss with the patient the availability of counseling
25 concerning the test results; and

- 1 (2) notify the patient of the test results.
 2 If a test conducted under this section indicates that a patient is HIV
 3 infected, in addition to the requirements set forth in IC 16-41-2, the
 4 physician or the physician's authorized representative shall inform the
 5 patient of treatment and referral options available to the patient.
- 6 (d) A physician or a physician's authorized representative may order
 7 an HIV test to be performed without informing the patient or the
 8 patient's representative (as defined in IC 16-36-1-2) of the test or
 9 regardless of the patient's or the patient's representative's refusal of the
 10 HIV test if any of the following conditions apply:
- 11 (1) If ordered by a physician, consent can be implied due to
 12 emergency circumstances and the test is medically necessary to
 13 diagnose or treat the patient's condition.
- 14 (2) Under a court order based on clear and convincing evidence
 15 of a serious and present health threat to others posed by an
 16 individual. A hearing held under this subdivision shall be held in
 17 camera at the request of the individual.
- 18 (3) If the test is done on blood collected or tested anonymously as
 19 part of an epidemiologic survey under IC 16-41-2-3 or
 20 IC 16-41-17-10(a)(5).
- 21 (4) The test is ordered under section 4 of this chapter.
- 22 (5) The test is required or authorized under IC 11-10-3-2.5.
- 23 (6) The individual upon whom the test will be performed is
 24 described in IC 16-41-8-6 or IC 16-41-10-2.5.
- 25 (7) A court has ordered the individual to undergo testing for HIV
 26 under IC 35-38-1-10.5(a) or ~~IC 35-38-2-2.3(a)(16)~~.
 27 **IC 35-38-2-2.3(a)(17).**
- 28 (8) Both of the following are met:
- 29 (A) The individual is not capable of providing consent and an
 30 authorized representative of the individual is not immediately
 31 available to provide consent or refusal of the test.
- 32 (B) A health care provider acting within the scope of the
 33 health care provider's employment comes into contact with the
 34 blood or body fluids of the individual in a manner that has
 35 been epidemiologically demonstrated to transmit HIV.
- 36 (e) The state department shall make HIV testing and treatment
 37 information from the federal Centers for Disease Control and
 38 Prevention available to health care providers.
- 39 (f) The state department may adopt rules under IC 4-22-2 necessary
 40 to implement this section."

1 In the conference committee report on EHB 1200, page 8, delete
2 lines 1 through 27.

(Reference is to EHB 1200 as printed February 17, 2012, as amended by the Conference Committee Report to EHB 1200.)

Senator LONG, Chairperson

Senator SIMPSON, R.M.M.

Senator BRAY