March 12, 2013

ENGROSSED
SENATE BILL No. 168

DIGEST OF SB 168 (Updated March 6, 2013 5:03 pm - DI 69)

Citations Affected: IC 9-30.

Synopsis: Chemical tests for intoxication. Provides that a bodily substance sample may be obtained by any person qualified through training, experience, or education to obtain a bodily substance sample. Specifies that a law enforcement officer who is an arresting officer or involved in the investigation of an accident or alleged crime may not obtain a blood sample from an individual if the blood sample is to be obtained from the individual as the result of the accident or alleged crime. Provides that the law enforcement officer may designate another qualified person, including another law enforcement officer, to obtain the blood sample except another person who is employed by, under contract with, or a volunteer for the same law enforcement agency that employs the law enforcement officer.

Effective: July 1, 2013.

Head, Merritt, Miller Patricia, Kruse, Tallian

(HOUSE SPONSORS — MCMILLIN, STEUERWALD)

January 7, 2013, read first time and referred to Committee on Corrections & Criminal Law.
January 24, 2013, amended, reported favorably — Do Pass.
January 28, 2013, read second time, amended, ordered engrossed.
January 29, 2013, engrossed. Read third time, passed. Yeas 48, nays 0.

HOUSE ACTION

February 26, 2013, read first time and referred to Committee on Courts and Criminal Code.
March 11, 2013, amended, reported — Do Pass.

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March 12, 2013

First Regular Session 118th General Assembly (2013)

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 2012 Regular Session of the General Assembly.

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ENGROSSED
SENATE BILL No. 168

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:

SECTION 1. IC 9-30-6-6, AS AMENDED BY P.L.77-2012, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 6. (a) A physician or a person trained in obtaining bodily substance samples and acting under the direction of or under a protocol prepared by a physician, who:

(1) obtains a blood, urine, or other bodily substance sample from a person, regardless of whether the sample is taken for diagnostic purposes or at the request of a law enforcement officer under this section; or

(2) performs a chemical test on blood, urine, or other bodily substance obtained from a person;

shall deliver the sample or disclose the results of the test to a law enforcement officer who requests the sample or results as a part of a criminal investigation. Samples and test results shall be provided to a law enforcement officer even if the person has not consented to or otherwise authorized their release.

(b) A physician, a hospital, or an agent of a physician or hospital is

not civilly or criminally liable for any of the following:

(1) Disclosing test results in accordance with this section.

(2) Delivering a blood, urine, or other bodily substance sample in accordance with this section.

(3) Obtaining a blood, urine, or other bodily substance sample in accordance with this section.

(4) Disclosing to the prosecuting attorney or the deputy prosecuting attorney for use at or testifying at the criminal trial of the person as to facts observed or opinions formed.

(5) Failing to treat a person from whom a blood, urine, or other bodily substance sample is obtained at the request of a law enforcement officer if the person declines treatment.

(6) Injury to a person arising from the performance of duties in good faith under this section.

(c) For the purposes of this chapter, IC 9-30-5, or IC 9-30-9:

(1) the privileges arising from a patient-physician relationship do not apply to the samples, test results, or testimony described in this section; and

(2) samples, test results, and testimony may be admitted in a proceeding in accordance with the applicable rules of evidence.

(d) The exceptions to the patient-physician relationship specified in subsection (c) do not affect those relationships in a proceeding not covered by this chapter, IC 9-30-5, or IC 9-30-9.

(e) The test results and samples obtained by a law enforcement officer under subsection (a) may be disclosed only to a prosecuting attorney or a deputy prosecuting attorney for use as evidence in a criminal proceeding under this chapter, IC 9-30-5, or IC 9-30-9.

(f) This section does not require a physician or a person under the direction of a physician to perform a chemical test.

(g) A physician or a person trained in obtaining bodily substance samples and acting under the direction of or under a protocol prepared by a physician shall obtain a blood, urine, or other bodily substance sample if the following exist:

(1) A law enforcement officer requests that the sample be obtained.

(2) The law enforcement officer has certified in writing the following:

(A) That the officer has probable cause to believe the person from whom the sample is to be obtained has violated IC 9-30-5.

(B) That the person from whom the sample is to be obtained has been involved in a motor vehicle accident that resulted in

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the serious bodily injury or death of another.

(C) That the accident that caused the serious bodily injury or death of another occurred not more than three (3) hours before the time the sample is requested.

(3) Not more than the use of reasonable force is necessary to obtain the sample.

(h) If the person:

(1) from whom the bodily substance sample is to be obtained under this section does not consent; and

(2) resists the taking of a sample;

the law enforcement officer may use reasonable force to assist an individual, who must be authorized under this section to obtain a sample, in the taking of the sample.

(i) The person authorized under this section to obtain a bodily substance sample shall take the sample in a medically accepted manner.

(j) This subsection does not apply to a bodily substance sample taken at a licensed hospital (as defined in IC 16-18-2-179(a) and IC 16-18-2-179(b)). A law enforcement officer may transport the person to a place where the sample may be obtained by any of the following persons who are trained in obtaining bodily substance samples and who have been engaged to obtain samples under this section:

(1) A physician holding an unlimited license to practice medicine or osteopathy.

(2) A registered nurse.

(3) A licensed practical nurse.

(4) An advanced emergency medical technician (as defined in IC 16-18-2-6.5).

(5) A paramedic (as defined in IC 16-18-2-266).

(6) Except as provided in subsection (k), any other person qualified through training, experience, or education to obtain a bodily substance sample.

(k) A law enforcement officer may not obtain a blood sample under this section if:

(1) the blood sample is to be obtained from an individual as a result of the individual's involvement in an accident or alleged crime; and

(2) the law enforcement officer is an arresting officer or is involved in the investigation of the accident or alleged crime.

This subsection does not prohibit a law enforcement officer who is an arresting officer or is involved in the investigation from

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designating another person qualified under this section, including a law enforcement officer, to obtain a blood sample. However, a law enforcement officer who is an arresting officer or is involved in the investigation may not designate another person to obtain a blood sample if the other person is employed by, under contract with, or a volunteer for the same law enforcement agency that employs the law enforcement officer.

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COMMITTEE REPORT

Madam President: The Senate Committee on Corrections and Criminal Law, to which was referred Senate Bill No. 168, 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 3, line 31, delete "Any" and insert "**Except as provided in subsection (k), any**".

Page 3, delete lines 33 through 36, begin a new paragraph and insert:

"**(k) A law enforcement officer may not obtain a blood sample under this section if:**

(1) the blood sample is to be obtained from an individual as a result of the individual's involvement in an accident or alleged crime; and

(2) the law enforcement officer is involved in the investigation of the accident or alleged crime.".

and when so amended that said bill do pass.

(Reference is to SB 168 as introduced.)

YOUNG R MICHAEL, Chairperson

Committee Vote: Yeas 8, Nays 0.

SENATE MOTION

Madam President: I move that Senate Bill 168 be amended to read as follows:

Page 3, line 34, delete "obtain" and insert "**draw**".

Page 3, line 39, after "is" insert "**an arresting officer or is**".

Page 3, after line 40, begin a new line and insert:

"**However, this subsection does not prohibit a law enforcement officer who is an arresting officer or is involved in the investigation from designating another person qualified under this section, including a law enforcement officer, to draw a blood sample.**".

(Reference is to SB 168 as printed January 25, 2013.)

HEAD

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Courts and Criminal Code, to which was referred Senate Bill 168, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 3, line 34, delete "draw" and insert "**obtain**".

Page 3, line 41, delete "However, this" and insert "**This**".

Page 4, line 2, delete "draw" and insert "**obtain**".

Page 4, line 2, after "sample." insert "**However, a law enforcement officer who is an arresting officer or is involved in the investigation may not designate another person to obtain a blood sample if the other person is employed by, under contract with, or a volunteer for the same law enforcement agency that employs the law enforcement officer.**".

and when so amended that said bill do pass.

(Reference is to SB 168 as reprinted January 29, 2013.)

MCMILLIN, Chair

Committee Vote: yeas 11, nays 1.

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