

**LEGISLATIVE SERVICES AGENCY**  
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**FISCAL IMPACT STATEMENT**

**LS 6547**

**BILL NUMBER:** HB 1038

**NOTE PREPARED:** Jan 29, 2013

**BILL AMENDED:** Jan 29, 2013

**SUBJECT:** Blood Donation Testing.

**FIRST AUTHOR:** Rep. Brown T

**FIRST SPONSOR:**

**BILL STATUS:** 2<sup>nd</sup> Reading - 1<sup>st</sup> House

**FUNDS AFFECTED:**  **GENERAL**  
 **DEDICATED**  
 **FEDERAL**

**IMPACT:** State & Local

**Summary of Legislation:** This bill defines "blood" for purposes of regulating blood centers. The bill includes: (1) blood and plasma used for research purposes; and (2) human cells, tissues, or cellular or tissue-based products; as exceptions to the requirement of the disposal of tested materials with an inconclusive result.

It removes a requirement that a blood center request an individual's Social Security number. The bill also allows a blood center to distribute blood or plasma before the completion of a screening test in a documented medical emergency. This bill also amends the exception to the crime of transferring contaminated body fluids for a person who is an autologous blood donor.

The bill also makes conforming changes.

**Effective Date:** July 1, 2013.

**Explanation of State Expenditures:** *Summary:* Most of the provisions of this bill update Indiana Code to reflect changes made in federal law pertaining to blood donations and are expected to have no fiscal impact.

However, the bill provides additional exemptions from the offense of transferring contaminated bodily fluids, which is a Class C felony. As a result, this bill could reduce Class C felony convictions for this offense. Actual decreases are indeterminable.

**Additional Information:** Currently, when a person recklessly, knowingly, or intentionally donates, sells, or

transfers blood or a blood component that is HIV positive, that person commits the offense of transferring contaminated blood, which is a Class C felony. The offense is a Class A felony if it results in the transmission of the HIV virus to another person. Current law does not specify an exemption from the offense for autologous donations (donations that are given for only the donor's use) or donations that are not intended for distribution or use. Because of these additional exemptions, the number of Class C felonies in the state could decrease to the extent individuals were previously convicted when the contaminated blood was their own and was either designated for autologous donation or was not intended for distribution or use.

*Penalty Provision:* A Class C felony is punishable by a prison term ranging from two to eight years depending upon mitigating and aggravating circumstances. Assuming offenders can be housed in existing facilities with no additional staff, the marginal cost for medical care, food, and clothing is approximately \$3,234 annually, or \$8.86 daily, per prisoner. However, any reduction in expenditures are likely to be small. The average length of stay in Department of Correction (DOC) facilities for all Class C felony offenders is approximately two years.

**Explanation of State Revenues:** *Penalty Provision:* If this bill reduces court cases that occur and fines that are collected, revenue to both the Common School Fund (from criminal fines) and the state General Fund (from court fees) would decrease. The maximum fine for a Class C felony is \$10,000. However, any reduction in revenues would likely be small.

**Explanation of Local Expenditures:** *Penalty Provision:* If fewer defendants are detained in county jails prior to their court hearings, local expenditures for jail operations may decrease. However, any reduction in expenditures would likely be small.

**Explanation of Local Revenues:** *Penalty Provision:* If fewer court actions occur and a guilty verdict is entered, local governments would receive less revenue from court fees. However, the amounts would likely be small.

**State Agencies Affected:** Department of Correction.

**Local Agencies Affected:** Trial courts, local law enforcement agencies.

**Information Sources:**

**Fiscal Analyst:** Bill Brumbach, 232-9559.