

**CONFERENCE COMMITTEE REPORT
DIGEST FOR ESB 168**

Citations Affected: IC 9-30-6-6.

Synopsis: Chemical tests for intoxication. Conference committee report for Engrossed Senate Bill 168. Provides that a bodily substance sample may be obtained by any person qualified through training, experience, or education to obtain a bodily substance sample. Provides that a law enforcement officer may not obtain a blood sample if the blood sample is to be obtained from another law enforcement officer as a result of the other law enforcement officer's involvement in an accident or alleged crime. Permits a law enforcement officer who is otherwise qualified to obtain a bodily substance sample under this section to obtain a bodily substance sample from a person involved in an accident or alleged crime only if the officer is video recorded while obtaining the bodily substance sample. Provides that the bodily substance sample or the results of a test on a bodily substance sample may not be admitted against a defendant in a criminal trial unless the video recording is sufficiently clear and available for use at trial. **(This conference committee report: (1) Provides that a law enforcement officer may not obtain a blood sample if the blood sample is to be obtained from another law enforcement officer as a result of the other law enforcement officer's involvement in an accident or alleged crime; (2) permits an otherwise qualified law enforcement officer to obtain a bodily substance sample from a person involved in an accident or alleged crime only if the officer is video recorded while obtaining the bodily substance sample; and (3) provides that the bodily substance sample or the results of a test on a bodily substance sample may not be admitted against a defendant in a criminal trial unless the video recording is sufficiently clear and available for use at trial.)**

Effective: July 1, 2013.

CONFERENCE COMMITTEE REPORT

MADAM PRESIDENT:

Your Conference Committee appointed to confer with a like committee from the House upon Engrossed House Amendments to Engrossed Senate Bill No. 168 respectfully reports that said two committees have conferred and agreed as follows to wit:

that the Senate recede from its dissent from all House amendments and that the Senate now concur in all House amendments to the bill and that the bill be further amended as follows:

- 1 Delete everything after the enacting clause and insert the following:
2 SECTION 1. IC 9-30-6-6, AS AMENDED BY P.L.77-2012,
3 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
4 JULY 1, 2013]: Sec. 6. (a) A physician or a person trained in obtaining
5 bodily substance samples and acting under the direction of or under a
6 protocol prepared by a physician, who:
7 (1) obtains a blood, urine, or other bodily substance sample from
8 a person, regardless of whether the sample is taken for diagnostic
9 purposes or at the request of a law enforcement officer under this
10 section; or
11 (2) performs a chemical test on blood, urine, or other bodily
12 substance obtained from a person;
13 shall deliver the sample or disclose the results of the test to a law
14 enforcement officer who requests the sample or results as a part of a
15 criminal investigation. Samples and test results shall be provided to a
16 law enforcement officer even if the person has not consented to or
17 otherwise authorized their release.
18 (b) A physician, a hospital, or an agent of a physician or hospital is
19 not civilly or criminally liable for any of the following:
20 (1) Disclosing test results in accordance with this section.
21 (2) Delivering a blood, urine, or other bodily substance sample in
22 accordance with this section.

- 1 (3) Obtaining a blood, urine, or other bodily substance sample in
2 accordance with this section.
- 3 (4) Disclosing to the prosecuting attorney or the deputy
4 prosecuting attorney for use at or testifying at the criminal trial of
5 the person as to facts observed or opinions formed.
- 6 (5) Failing to treat a person from whom a blood, urine, or other
7 bodily substance sample is obtained at the request of a law
8 enforcement officer if the person declines treatment.
- 9 (6) Injury to a person arising from the performance of duties in
10 good faith under this section.
- 11 (c) For the purposes of this chapter, IC 9-30-5, or IC 9-30-9:
12 (1) the privileges arising from a patient-physician relationship do
13 not apply to the samples, test results, or testimony described in
14 this section; and
15 (2) samples, test results, and testimony may be admitted in a
16 proceeding in accordance with the applicable rules of evidence.
- 17 (d) The exceptions to the patient-physician relationship specified in
18 subsection (c) do not affect those relationships in a proceeding not
19 covered by this chapter, IC 9-30-5, or IC 9-30-9.
- 20 (e) The test results and samples obtained by a law enforcement
21 officer under subsection (a) may be disclosed only to a prosecuting
22 attorney or a deputy prosecuting attorney for use as evidence in a
23 criminal proceeding under this chapter, IC 9-30-5, or IC 9-30-9.
- 24 (f) This section does not require a physician or a person under the
25 direction of a physician to perform a chemical test.
- 26 (g) A physician or a person trained in obtaining bodily substance
27 samples and acting under the direction of or under a protocol prepared
28 by a physician shall obtain a blood, urine, or other bodily substance
29 sample if the following exist:
30 (1) A law enforcement officer requests that the sample be
31 obtained.
32 (2) The law enforcement officer has certified in writing the
33 following:
34 (A) That the officer has probable cause to believe the person
35 from whom the sample is to be obtained has violated
36 IC 9-30-5.
37 (B) That the person from whom the sample is to be obtained
38 has been involved in a motor vehicle accident that resulted in
39 the serious bodily injury or death of another.
40 (C) That the accident that caused the serious bodily injury or
41 death of another occurred not more than three (3) hours before
42 the time the sample is requested.
- 43 (3) Not more than the use of reasonable force is necessary to
44 obtain the sample.
- 45 (h) If the person:
46 (1) from whom the bodily substance sample is to be obtained
47 under this section does not consent; and
48 (2) resists the taking of a sample;
49 the law enforcement officer may use reasonable force to assist an
50 individual, who must be authorized under this section to obtain a

- 1 sample, in the taking of the sample.
 - 2 (i) The person authorized under this section to obtain a bodily
 - 3 substance sample shall take the sample in a medically accepted
 - 4 manner.
 - 5 (j) This subsection does not apply to a bodily substance sample
 - 6 taken at a licensed hospital (as defined in IC 16-18-2-179(a) and
 - 7 IC 16-18-2-179(b)). A law enforcement officer may transport the
 - 8 person to a place where the sample may be obtained by any of the
 - 9 following persons who are trained in obtaining bodily substance
 - 10 samples and who have been engaged to obtain samples under this
 - 11 section:
 - 12 (1) A physician holding an unlimited license to practice medicine
 - 13 or osteopathy.
 - 14 (2) A registered nurse.
 - 15 (3) A licensed practical nurse.
 - 16 (4) An advanced emergency medical technician (as defined in
 - 17 IC 16-18-2-6.5).
 - 18 (5) A paramedic (as defined in IC 16-18-2-266).
 - 19 **(6) Except as provided in subsections (k) through (l), any**
 - 20 **other person qualified through training, experience, or**
 - 21 **education to obtain a bodily substance sample.**
 - 22 **(k) A law enforcement officer may not obtain a bodily substance**
 - 23 **sample under this section if the sample is to be obtained from**
 - 24 **another law enforcement officer as a result of the other law**
 - 25 **enforcement officer's involvement in an accident or alleged crime.**
 - 26 **(l) A law enforcement officer who is otherwise qualified to**
 - 27 **obtain a bodily substance sample under this section may obtain a**
 - 28 **bodily substance sample from a person involved in an accident or**
 - 29 **alleged crime only if the officer is video recorded while obtaining**
 - 30 **the bodily substance sample. The bodily substance sample or the**
 - 31 **results of a test on a bodily substance sample may not be admitted**
 - 32 **against a defendant in a criminal trial unless the video recording**
 - 33 **is:**
 - 34 **(1) sufficiently clear; and**
 - 35 **(2) available for use at trial.**
- (Reference is to Engrossed Senate Bill 168 as reprinted March 19, 2013.)

Conference Committee Report
on
Engrossed Senate Bill 168

Signed by:

Senator Head
Chairperson

Representative McMillin

Senator Tallian

Representative Pierce

Senate Conferees

House Conferees