

# COMMITTEE REPORT

Mr. Speaker: Pursuant to Joint Rule 20, your Committee on Rules and Legislative Procedures, 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 House 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 or  
20          the physician's authorized representative may not perform the test and  
21          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  
26          (2) notify the patient of the test results.

1 If a test conducted under this section indicates that a patient is HIV  
 2 infected, in addition to the requirements set forth in IC 16-41-2, the  
 3 physician or the physician's authorized representative shall inform the  
 4 patient of treatment and referral options available to the patient.

5 (d) A physician or a physician's authorized representative may order  
 6 an HIV test to be performed without informing the patient or the  
 7 patient's representative (as defined in IC 16-36-1-2) of the test or  
 8 regardless of the patient's or the patient's representative's refusal of the  
 9 HIV test if any of the following conditions apply:

10 (1) If ordered by a physician, consent can be implied due to  
 11 emergency circumstances and the test is medically necessary to  
 12 diagnose or treat the patient's condition.

13 (2) Under a court order based on clear and convincing evidence  
 14 of a serious and present health threat to others posed by an  
 15 individual. A hearing held under this subdivision shall be held in  
 16 camera at the request of the individual.

17 (3) If the test is done on blood collected or tested anonymously as  
 18 part of an epidemiologic survey under IC 16-41-2-3 or  
 19 IC 16-41-17-10(a)(5).

20 (4) The test is ordered under section 4 of this chapter.

21 (5) The test is required or authorized under IC 11-10-3-2.5.

22 (6) The individual upon whom the test will be performed is  
 23 described in IC 16-41-8-6 or IC 16-41-10-2.5.

24 (7) A court has ordered the individual to undergo testing for HIV  
 25 under IC 35-38-1-10.5(a) or ~~IC 35-38-2-2.3(a)(16).~~  
 26 **IC 35-38-2-2.3(a)(17).**

27 (8) Both of the following are met:

28 (A) The individual is not capable of providing consent and an  
 29 authorized representative of the individual is not immediately  
 30 available to provide consent or refusal of the test.

31 (B) A health care provider acting within the scope of the health  
 32 care provider's employment comes into contact with the blood  
 33 or body fluids of the individual in a manner that has been  
 34 epidemiologically demonstrated to transmit HIV.

35 (e) The state department shall make HIV testing and treatment  
 36 information from the federal Centers for Disease Control and  
 37 Prevention available to health care providers.

38 (f) The state department may adopt rules under IC 4-22-2 necessary  
 39 to implement this section."

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

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

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Representative Torr, Chairperson

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Representative Austin, R.M.M.

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Representative Foley, Author