

# HOUSE BILL No. 1392

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## DIGEST OF INTRODUCED BILL

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

**Synopsis:** Retention of blood samples. Requires a hospital or facility that obtains or receives a bodily substance sample (sample) taken at the direction of a law enforcement officer to retain the sample until notified in writing by an authorized law enforcement officer that the sample may be destroyed, discarded, or transferred. Permits the hospital or facility to charge a reasonable storage fee if the sample is retained for longer than 60 days, and specifies that a hospital or facility is not required to retain a sample for more than three years unless an authorized law enforcement officer requests that it be retained for a longer time.

**Effective:** July 1, 2014.

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January 21, 2014, read first time and referred to Committee on Courts and Criminal Code.

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Second Regular Session 118th General Assembly (2014)

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 2013 Regular Session and 2013 First Regular Technical Session of the General Assembly.

## HOUSE BILL No. 1392

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A BILL FOR AN ACT to amend the Indiana Code concerning public safety.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 9-30-6-6, AS AMENDED BY P.L.237-2013,  
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2014]: Sec. 6. (a) A physician or a person trained in obtaining  
4 bodily substance samples and acting under the direction of or under a  
5 protocol prepared by a physician, who:  
6 (1) obtains a blood, urine, or other bodily substance sample from  
7 a person, regardless of whether the sample is taken for diagnostic  
8 purposes or at the request of a law enforcement officer under this  
9 section; or  
10 (2) performs a chemical test on blood, urine, or other bodily  
11 substance obtained from a person;  
12 shall deliver the sample or disclose the results of the test to a law  
13 enforcement officer who requests the sample or results as a part of a  
14 criminal investigation. Samples and test results shall be provided to a  
15 law enforcement officer even if the person has not consented to or  
16 otherwise authorized their release.



1 (b) A physician, a hospital, or an agent of a physician or hospital is  
2 not civilly or criminally liable for any of the following:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

42 (B) That the person from whom the sample is to be obtained



- 1           has been involved in a motor vehicle accident that resulted in  
2           the serious bodily injury or death of another.
- 3           (C) That the accident that caused the serious bodily injury or  
4           death of another occurred not more than three (3) hours before  
5           the time the sample is requested.
- 6           (3) Not more than the use of reasonable force is necessary to  
7           obtain the sample.
- 8           (h) If the person:
- 9           (1) from whom the bodily substance sample is to be obtained  
10          under this section does not consent; and  
11          (2) resists the taking of a sample;
- 12          the law enforcement officer may use reasonable force to assist an  
13          individual, who must be authorized under this section to obtain a  
14          sample, in the taking of the sample.
- 15          (i) The person authorized under this section to obtain a bodily  
16          substance sample shall take the sample in a medically accepted  
17          manner.
- 18          (j) This subsection does not apply to a bodily substance sample  
19          taken at a licensed hospital (as defined in IC 16-18-2-179(a) and  
20          IC 16-18-2-179(b)). A law enforcement officer may transport the  
21          person to a place where the sample may be obtained by any of the  
22          following persons who are trained in obtaining bodily substance  
23          samples and who have been engaged to obtain samples under this  
24          section:
- 25               (1) A physician holding an unlimited license to practice medicine  
26               or osteopathy.  
27               (2) A registered nurse.  
28               (3) A licensed practical nurse.  
29               (4) An advanced emergency medical technician (as defined in  
30               IC 16-18-2-6.5).  
31               (5) A paramedic (as defined in IC 16-18-2-266).  
32               (6) Except as provided in subsections (k) through (l), any other  
33               person qualified through training, experience, or education to  
34               obtain a bodily substance sample.
- 35          (k) A law enforcement officer may not obtain a bodily substance  
36          sample under this section if the sample is to be obtained from another  
37          law enforcement officer as a result of the other law enforcement  
38          officer's involvement in an accident or alleged crime.
- 39          (l) A law enforcement officer who is otherwise qualified to obtain  
40          a bodily substance sample under this section may obtain a bodily  
41          substance sample from a person involved in an accident or alleged  
42          crime who is not a law enforcement officer only if:



1 (1) before January 1, 2013, the officer obtained a bodily substance  
2 sample from an individual as part of the officer's official duties as  
3 a law enforcement officer; and

4 (2) the:

5 (A) person consents to the officer obtaining a bodily substance  
6 sample; or

7 (B) obtaining of the bodily substance sample is authorized by  
8 a search warrant.

9 **(m) A hospital or facility:**

10 **(1) in which a bodily substance sample is obtained under this**  
11 **section; or**

12 **(2) to which a bodily substance sample obtained under this**  
13 **section is transferred;**

14 **shall retain the sample until notified in writing by an authorized**  
15 **law enforcement officer that the sample may be destroyed,**  
16 **discarded, or transferred to another person, hospital, or facility. If**  
17 **the bodily substance sample is retained for more than sixty (60)**  
18 **days, the hospital or facility may charge the law enforcement**  
19 **agency that requested the sample a reasonable storage fee.**  
20 **However, a hospital or facility is not required to retain a bodily**  
21 **substance sample for more than three (3) years unless requested to**  
22 **do so by an authorized law enforcement officer.**

