



February 15, 2019

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## SENATE BILL No. 333

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DIGEST OF SB 333 (Updated February 13, 2019 5:07 pm - DI 128)

**Citations Affected:** IC 9-13; IC 9-30; IC 16-41; IC 34-30; IC 35-31.5; IC 35-33.

**Synopsis:** Body cavity searches and blood draws. Establishes a procedure authorizing licensed medical personnel to obtain a bodily fluid sample or to retrieve contraband from the body cavity of an individual as part of a criminal investigation, and, grants, with certain exceptions, immunity to medical personnel. Provides that, in the case of an emergency medical services provider or a law enforcement officer who is exposed to a patient's blood or body fluids, certain persons may seek a warrant from a circuit or superior court requiring that an unwilling patient provide a blood or body fluid specimen for testing for a dangerous communicable disease.

**Effective:** July 1, 2019.

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### Grooms

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January 7, 2019, read first time and referred to Committee on Judiciary.  
February 14, 2019, amended, reported favorably — Do Pass.

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SB 333—LS 6966/DI 106





February 15, 2019

First Regular Session of the 121st General Assembly (2019)

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 2018 Regular and Special Session of the General Assembly.

## SENATE BILL No. 333

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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:*

- 1 SECTION 1. IC 9-13-2-93.1 IS ADDED TO THE INDIANA CODE  
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
3 1, 2019]: **Sec. 93.1. "Licensed health care professional", for**  
4 **purposes of IC 9-30-6-6, has the meaning set forth in**  
5 **IC 35-33-15-1.**
- 6 SECTION 2. IC 9-13-2-125.7 IS ADDED TO THE INDIANA  
7 CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
8 [EFFECTIVE JULY 1, 2019]: **Sec. 125.7. "Physician", for purposes**  
9 **of IC 9-30-6-6, has the meaning set forth in IC 35-33-15-1.**
- 10 SECTION 3. IC 9-30-6-6, AS AMENDED BY P.L.237-2013,  
11 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
12 JULY 1, 2019]: Sec. 6. (a) A physician, ~~or~~ a person trained in  
13 **retrieving contraband or** obtaining bodily substance samples and  
14 acting under the direction of or under a protocol prepared by a  
15 physician, **or a licensed health care professional acting within the**  
16 **professional's scope of practice and under the direction of or under**  
17 **a protocol prepared by a physician, who:**

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

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

7 **(3) searches for or retrieves contraband from the body cavity**  
 8 **of an individual;**

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

14 (b) A physician, **a licensed health care professional**, a hospital, or  
 15 an agent of a physician or hospital is not civilly or criminally liable for  
 16 any of the following:

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

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

20 (3) **Searching for or retrieving contraband, or** obtaining a  
 21 blood, urine, or other bodily substance sample in accordance with  
 22 this section.

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

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

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

32 (c) For the purposes of ~~this chapter, IC 9-30-5, or IC 9-30-9: a~~  
 33 **criminal proceeding:**

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

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

40 (d) The exceptions to the patient-physician relationship specified in  
 41 subsection (c) do not affect those relationships in a proceeding ~~not~~  
 42 **covered by this chapter, IC 9-30-5, or IC 9-30-9: that is not a criminal**



1 **proceeding.**

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

7 (f) This section does not require a physician or a person under the  
8 direction of a physician to perform a chemical test **or to retrieve**  
9 **contraband.**

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

14 (1) A law enforcement officer requests that the sample be  
15 obtained:

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

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

21 (B) That the person from whom the sample is to be obtained  
22 has been involved in a motor vehicle accident that resulted in  
23 the serious bodily injury or death of another.

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

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

29 (h) (g) If the person:

30 (1) from whom the **contraband is to be retrieved or the** bodily  
31 substance sample is to be obtained under this section does not  
32 consent; and

33 (2) resists the **retrieval of the contraband or the** taking of a  
34 sample;

35 the law enforcement officer may use reasonable force to assist an  
36 individual, who must be authorized under this section to **retrieve**  
37 **contraband or** obtain a sample, in the **retrieval of the contraband or**  
38 **the** taking of the sample.

39 (i) (h) The person authorized under this section to **retrieve**  
40 **contraband or** obtain a bodily substance sample shall take the sample  
41 in a medically accepted manner.

42 (j) (i) This subsection does not apply to **contraband retrieved or**



1 a bodily substance sample taken at a licensed hospital (as defined in  
 2 IC 16-18-2-179(a) and IC 16-18-2-179(b)). A law enforcement officer  
 3 may transport the person to a place where the **contraband may be**  
 4 **retrieved or the** sample may be obtained by any of the following  
 5 persons who are trained in **retrieving contraband or** obtaining bodily  
 6 substance samples and who have been engaged to **retrieve contraband**  
 7 **or** obtain samples under this section:

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

10 (2) A registered nurse.

11 (3) A licensed practical nurse.

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

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

15 (6) Except as provided in subsections ~~(j)~~ **(j)** through ~~(k)~~ **(k)**, any  
 16 other person qualified through training, experience, or education  
 17 to **retrieve contraband or** obtain a bodily substance sample.

18 ~~(j)~~ **(j)** A law enforcement officer may not **retrieve contraband or**  
 19 obtain a bodily substance sample under this section if the **contraband**  
 20 **is to be retrieved or the** sample is to be obtained from another law  
 21 enforcement officer as a result of the other law enforcement officer's  
 22 involvement in an accident or alleged crime.

23 ~~(k)~~ **(k)** A law enforcement officer who is otherwise qualified to  
 24 obtain a bodily substance sample under this section may obtain a bodily  
 25 substance sample from a person involved in an accident or alleged  
 26 crime who is not a law enforcement officer only if:

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

30 (2) the:

31 (A) person consents to the officer obtaining a bodily substance  
 32 sample; or

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

35 SECTION 4. IC 16-41-10-2.5, AS AMENDED BY P.L.131-2018,  
 36 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 37 JULY 1, 2019]: Sec. 2.5. (a) A patient (including a patient who is  
 38 unable to consent due to physical or mental incapacity) to whose blood  
 39 or body fluids an emergency medical services provider or a law  
 40 enforcement officer is exposed as described in section 2 of this chapter  
 41 is considered to have consented to:

42 (1) testing for the presence of a dangerous communicable disease



1 of a type that has been epidemiologically demonstrated to be  
 2 transmittable by an exposure of the kind experienced by the  
 3 emergency medical services provider or law enforcement officer;  
 4 and

5 (2) release of the testing results to a medical director or physician  
 6 described in section 3 of this chapter.

7 The medical director or physician shall notify the emergency medical  
 8 services provider or law enforcement officer of the test results.

9 (b) If a patient described in subsection (a) refuses to provide a blood  
 10 or body fluid specimen for testing for a dangerous communicable  
 11 disease, the exposed emergency medical services provider or law  
 12 enforcement officer, the exposed emergency medical services  
 13 provider's or law enforcement officer's employer, or the state  
 14 department may petition the circuit or superior court having  
 15 jurisdiction in the county:

16 (1) of the patient's residence; or

17 (2) where the employer of the exposed emergency medical  
 18 services provider or law enforcement officer has the employer's  
 19 principal office;

20 for **a warrant or** an order requiring that the patient provide a blood or  
 21 body fluid specimen.

22 SECTION 5. IC 16-41-10-3, AS AMENDED BY P.L.131-2018,  
 23 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 24 JULY 1, 2019]: Sec. 3. (a) Except as provided in subsection (b), if a  
 25 patient to whose blood or body fluids an emergency medical services  
 26 provider or a law enforcement officer is exposed as described in section  
 27 2 of this chapter:

28 (1) is admitted to a medical facility following the exposure or is  
 29 located in a medical facility at the time of the exposure, a  
 30 physician designated by the medical facility shall, not more than  
 31 seventy-two (72) hours after the medical facility is notified under  
 32 section 2 of this chapter:

33 (A) cause a blood or body fluid specimen to be obtained from  
 34 the patient and testing to be performed for a dangerous  
 35 communicable disease of a type that has been  
 36 epidemiologically demonstrated to be transmittable by an  
 37 exposure of the kind experienced by the emergency medical  
 38 services provider or law enforcement officer; and

39 (B) notify the medical director of the emergency medical  
 40 services provider's employer or a physician as designated  
 41 under subsection (b) or (c); or

42 (2) is not described in subdivision (1), the exposed emergency



1 medical services provider or law enforcement officer, the exposed  
 2 emergency medical services provider's or law enforcement  
 3 officer's employer, or the state department may:

- 4 (A) arrange for testing of the patient as soon as possible; or  
 5 (B) petition the circuit or superior court having jurisdiction in  
 6 the county of the patient's residence or where the employer of  
 7 the exposed emergency medical services provider or law  
 8 enforcement officer has the employer's principal office for a  
 9 **warrant or** an order requiring that the patient provide a blood  
 10 or body fluid specimen.

11 (b) An emergency medical services provider may, on the form  
 12 described in section 2 of this chapter, designate a physician other than  
 13 the medical director of the emergency medical services provider's  
 14 employer to receive the test results.

15 (c) A law enforcement officer shall, on the form described in section  
 16 2 of this chapter, designate a physician to receive the test results.

17 (d) The medical director or physician described in this section shall  
 18 notify the emergency medical services provider or law enforcement  
 19 officer of the test results not more than forty-eight (48) hours after the  
 20 medical director or physician receives the test results.

21 SECTION 6. IC 34-30-2-147.5 IS ADDED TO THE INDIANA  
 22 CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
 23 [EFFECTIVE JULY 1, 2019]: **Sec. 147.5. IC 35-33-15 (Concerning**  
 24 **bodily fluid collection and contraband retrieval).**

25 SECTION 7. IC 35-31.5-2-186.7 IS ADDED TO THE INDIANA  
 26 CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
 27 [EFFECTIVE JULY 1, 2019]: **Sec. 186.7. "Licensed health care**  
 28 **professional", for purposes of IC 35-33-15, has the meaning set**  
 29 **forth in IC 35-33-15-1.**

30 SECTION 8. IC 35-31.5-2-235.5, AS ADDED BY P.L.113-2018,  
 31 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 32 JULY 1, 2019]: Sec. 235.5. (a) "Physician", for purposes of  
 33 IC 35-46-5-3, has the meaning set forth in IC 35-46-5-3(b).

34 (b) "Physician", for purposes of IC 35-33-15, has the meaning  
 35 set forth in IC 35-33-15-1.

36 SECTION 9. IC 35-33-15 IS ADDED TO THE INDIANA CODE  
 37 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE  
 38 JULY 1, 2019]:

39 **Chapter 15. Bodily Fluid Collection and Contraband Retrieval**  
 40 **Sec. 1. The following definitions apply throughout this chapter:**

- 41 (1) "Licensed health care professional" means a health care  
 42 professional licensed in Indiana.





- 1           (2) "Physician" means an individual who is licensed to
- 2           practice medicine in Indiana under IC 25-22.5.
- 3           Sec. 2. (a) A licensed health care professional acting within the
- 4           professional's scope of practice, a hospital, or an agent of a
- 5           physician or hospital is not civilly or criminally liable for any of the
- 6           following:
- 7           (1) Disclosing test results in accordance with IC 9-30-6-6.
- 8           (2) Obtaining a blood, urine, or other bodily substance sample
- 9           in accordance with IC 9-30-6-6.
- 10          (3) Delivering a blood, urine, or other bodily substance sample
- 11          in accordance with IC 9-30-6-6.
- 12          (4) Searching for, retrieving, or attempting to retrieve
- 13          contraband concealed in a bodily cavity in accordance with IC
- 14          9-30-6-6.
- 15          (5) Disclosing facts observed or opinions formed to the
- 16          prosecuting attorney or the deputy prosecuting attorney for
- 17          use at trial, or testifying at the criminal trial of the individual
- 18          as to facts observed or opinions formed with respect to an
- 19          examination made or acts taken under IC 9-30-6-6.
- 20          (6) Failing to treat an individual from whom contraband or a
- 21          blood, urine, or other bodily substance sample is obtained
- 22          under IC 9-30-6-6 at the request of a law enforcement officer
- 23          if the individual declines treatment.
- 24          (7) Injury to an individual arising from the performance of
- 25          duties in good faith under IC 9-30-6-6.
- 26          However, the immunity under this subsection does not apply if the
- 27          physician or licensed health care professional acts with gross
- 28          negligence or willful or wanton misconduct.
- 29          (b) For the purposes of this section:
- 30          (1) the privileges arising from a patient-physician relationship
- 31          do not apply to the contraband, samples, test results, or
- 32          testimony described in IC 9-30-6-6; and
- 33          (2) contraband, samples, test results, and testimony relating
- 34          to an examination made or acts taken under IC 9-30-6-6 may
- 35          be admitted in a proceeding in accordance with the applicable
- 36          rules of evidence.
- 37          (c) The exceptions to the patient-physician relationship specified
- 38          in subsection (b) do not affect those relationships in a proceeding
- 39          not covered by this section.
- 40          (d) The contraband, samples, and test results obtained by a law
- 41          enforcement officer under IC 9-30-6-6 may be disclosed only to a
- 42          prosecuting attorney or a deputy prosecuting attorney for use as



1 evidence in a criminal proceeding.

2 (e) This section and IC 9-30-6-6 do not require a physician, a  
3 person under the direction of a physician, or a licensed health care  
4 professional acting within the professional's scope of practice to  
5 perform a chemical test or to retrieve contraband.

6 (f) If the individual:

7 (1) from whom the contraband is to be retrieved or the bodily  
8 substance sample is to be obtained under IC 9-30-6-6 does not  
9 consent; and

10 (2) resists the retrieval of contraband or the taking of a  
11 sample;

12 the law enforcement officer may use reasonable force to assist a  
13 person, who must be authorized under IC 9-30-6-6 to retrieve  
14 contraband or obtain a sample, in the retrieval of the contraband  
15 or the taking of the sample.

16 (g) The person authorized under IC 9-30-6-6 to retrieve  
17 contraband or obtain a bodily substance sample shall retrieve the  
18 contraband or take the sample in a medically accepted manner.

19 (h) This subsection does not apply to contraband retrieved at,  
20 or a bodily substance sample taken at, a licensed hospital. A law  
21 enforcement officer may transport the individual to a place where  
22 the contraband may be retrieved or a sample may be obtained by  
23 any of the following licensed health care professionals, acting  
24 within their scope of practice, and who have been engaged to  
25 retrieve contraband or obtain samples under IC 9-30-6-6:

26 (1) A physician.

27 (2) A physician's assistant.

28 (3) A registered nurse.

29 (4) An advanced practice registered nurse.

30 (5) A licensed practical nurse.

31 (6) An advanced emergency medical technician.

32 (7) A paramedic.

33 (8) Except as provided in subsections (i) through (j), any other  
34 licensed health care professional acting within the  
35 professional's scope of practice.

36 (i) A law enforcement officer may not retrieve contraband or  
37 obtain a bodily substance sample if the contraband is to be  
38 retrieved from, or the sample is to be obtained from, another law  
39 enforcement officer as a result of the other law enforcement  
40 officer's involvement in an accident or alleged criminal offense.

41 (j) A law enforcement officer who is otherwise qualified to  
42 obtain a bodily substance sample under IC 9-30-6-6 may obtain a



1       **bodily substance sample from an individual involved in an accident**  
2       **or alleged crime who is not a law enforcement officer only if:**  
3               **(1) before January 1, 2013, the officer obtained a bodily**  
4               **substance sample from an individual as part of the officer's**  
5               **official duties as a law enforcement officer; and**  
6               **(2) the:**  
7                       **(A) individual consents to the officer obtaining a bodily**  
8                       **substance sample; or**  
9                       **(B) obtaining of the bodily substance sample is authorized**  
10                      **by a search warrant.**



## COMMITTEE REPORT

Madam President: The Senate Committee on Judiciary, to which was referred Senate Bill No. 333, 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 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 9-13-2-93.1 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: **Sec. 93.1. "Licensed health care professional", for purposes of IC 9-30-6-6, has the meaning set forth in IC 35-33-15-1.**

SECTION 2. IC 9-13-2-125.7 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: **Sec. 125.7. "Physician", for purposes of IC 9-30-6-6, has the meaning set forth in IC 35-33-15-1.**

SECTION 3. IC 9-30-6-6, AS AMENDED BY P.L.237-2013, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 6. (a) A physician, **or** a person trained in **retrieving contraband or** obtaining bodily substance samples and acting under the direction of or under a protocol prepared by a physician, **or a licensed health care professional acting within the professional's scope of practice and 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; **or**

**(3) searches for or retrieves contraband from the body cavity of an individual;**

shall deliver the sample **or contraband** or disclose the results of the test to a law enforcement officer who requests the sample, **contraband**, or results as a part of a criminal investigation. Samples, **contraband**, 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 licensed health care professional**, 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 **contraband, or** a blood, urine, or other bodily substance sample in accordance with this section.

(3) **Searching for or retrieving contraband, or** 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 **contraband is retrieved or** 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:~~ **a criminal proceeding:**

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

(2) **contraband**, 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.~~ **that is not a criminal proceeding.**

(e) The **contraband**, 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 **or to retrieve contraband.**

(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 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) (g) If the person:

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

(2) resists the **retrieval of the contraband or 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 **retrieve contraband or** obtain a sample, in the **retrieval of the contraband or the** taking of the sample.

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

(j) (i) This subsection does not apply to **contraband retrieved or** 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 **contraband may be retrieved or the** sample may be obtained by any of the following persons who are trained in **retrieving contraband or** obtaining bodily substance samples and who have been engaged to **retrieve contraband or** 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 subsections (k) (j) through (l) (k), any other person qualified through training, experience, or education to **retrieve contraband or** obtain a bodily substance sample.



(\*) (j) A law enforcement officer may not **retrieve contraband or** obtain a bodily substance sample under this section if the **contraband is to be retrieved or the** 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.

(\*) (k) A law enforcement officer who is otherwise qualified to obtain a bodily substance sample under this section may obtain a bodily substance sample from a person involved in an accident or alleged crime who is not a law enforcement officer only if:

- (1) before January 1, 2013, the officer obtained a bodily substance sample from an individual as part of the officer's official duties as a law enforcement officer; and
- (2) the:
  - (A) person consents to the officer obtaining a bodily substance sample; or
  - (B) obtaining of the bodily substance sample is authorized by a search warrant.

SECTION 4. IC 16-41-10-2.5, AS AMENDED BY P.L.131-2018, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 2.5. (a) A patient (including a patient who is unable to consent due to physical or mental incapacity) to whose blood or body fluids an emergency medical services provider or a law enforcement officer is exposed as described in section 2 of this chapter is considered to have consented to:

- (1) testing for the presence of a dangerous communicable disease of a type that has been epidemiologically demonstrated to be transmittable by an exposure of the kind experienced by the emergency medical services provider or law enforcement officer; and
- (2) release of the testing results to a medical director or physician described in section 3 of this chapter.

The medical director or physician shall notify the emergency medical services provider or law enforcement officer of the test results.

(b) If a patient described in subsection (a) refuses to provide a blood or body fluid specimen for testing for a dangerous communicable disease, the exposed emergency medical services provider or law enforcement officer, the exposed emergency medical services provider's or law enforcement officer's employer, or the state department may petition the circuit or superior court having jurisdiction in the county:

- (1) of the patient's residence; or
- (2) where the employer of the exposed emergency medical

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services provider or law enforcement officer has the employer's principal office;  
for **a warrant or** an order requiring that the patient provide a blood or body fluid specimen.

SECTION 5. IC 16-41-10-3, AS AMENDED BY P.L.131-2018, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 3. (a) Except as provided in subsection (b), if a patient to whose blood or body fluids an emergency medical services provider or a law enforcement officer is exposed as described in section 2 of this chapter:

(1) is admitted to a medical facility following the exposure or is located in a medical facility at the time of the exposure, a physician designated by the medical facility shall, not more than seventy-two (72) hours after the medical facility is notified under section 2 of this chapter:

(A) cause a blood or body fluid specimen to be obtained from the patient and testing to be performed for a dangerous communicable disease of a type that has been epidemiologically demonstrated to be transmittable by an exposure of the kind experienced by the emergency medical services provider or law enforcement officer; and

(B) notify the medical director of the emergency medical services provider's employer or a physician as designated under subsection (b) or (c); or

(2) is not described in subdivision (1), the exposed emergency medical services provider or law enforcement officer, the exposed emergency medical services provider's or law enforcement officer's employer, or the state department may:

(A) arrange for testing of the patient as soon as possible; or

(B) petition the circuit or superior court having jurisdiction in the county of the patient's residence or where the employer of the exposed emergency medical services provider or law enforcement officer has the employer's principal office for **a warrant or** an order requiring that the patient provide a blood or body fluid specimen.

(b) An emergency medical services provider may, on the form described in section 2 of this chapter, designate a physician other than the medical director of the emergency medical services provider's employer to receive the test results.

(c) A law enforcement officer shall, on the form described in section 2 of this chapter, designate a physician to receive the test results.

(d) The medical director or physician described in this section shall





notify the emergency medical services provider or law enforcement officer of the test results not more than forty-eight (48) hours after the medical director or physician receives the test results."

Page 2, delete lines 8 through 24.

Page 2, line 25, delete "(b)" and insert "**Sec. 2. (a)**".

Page 2, line 29, delete "this section." and insert "**IC 9-30-6-6**".

Page 2, line 31, delete "this section." and insert "**IC 9-30-6-6**".

Page 2, line 33, delete "this section." and insert "**IC 9-30-6-6**".

Page 2, line 35, delete "orifice" and insert "**cavity**".

Page 2, delete line 36 and insert "**IC 9-30-6-6**".

Page 2, line 40, delete "formed." and insert "**formed with respect to an examination made or acts taken under IC 9-30-6-6**".

Page 2, line 42, after "obtained" insert "**under IC 9-30-6-6**".

Page 3, line 4, delete "this section." and insert "**IC 9-30-6-6**".

Page 3, between lines 4 and 5, begin a new line blocked left and insert:

**"However, the immunity under this subsection does not apply if the physician or licensed health care professional acts with gross negligence or willful or wanton misconduct."**

Page 3, line 5, delete "(c)" and insert "**(b)**".

Page 3, line 8, delete "this section;" and insert "**IC 9-30-6-6**";".

Page 3, line 9, after "testimony" insert "**relating to an examination made or acts taken under IC 9-30-6-6**".

Page 3, line 12, delete "(d)" and insert "**(c)**".

Page 3, line 13, delete "(c)" and insert "**(b)**".

Page 3, line 15, delete "(e)" and insert "**(d)**".

Page 3, line 16, delete "subsection (a)" and insert "**IC 9-30-6-6**".

Page 3, line 19, delete "(f)" and insert "**(e)**".

Page 3, line 19, delete "does" and insert "**and IC 9-30-6-6 do**".

Page 3, line 22, delete "test." and insert "**test or to retrieve contraband**".

Page 3, delete lines 23 through 35.

Page 3, line 36, delete "(h)" and insert "**(f)**".

Page 3, line 38, delete "this section" and insert "**IC 9-30-6-6**".

Page 4, line 1, delete "this section" and insert "**IC 9-30-6-6**".

Page 4, line 4, delete "(i)" and insert "**(g)**".

Page 4, line 4, delete "this section" and insert "**IC 9-30-6-6**".

Page 4, line 7, delete "(j)" and insert "**(h)**".

Page 4, line 13, delete "this section:" and insert "**IC 9-30-6-6**".

Page 4, line 21, delete "(k) through (l)," and insert "**(i) through (j)**".

Page 4, line 24, delete "(k)" and insert "**(i)**".

Page 4, line 25, delete "under this section".



Page 4, line 30, delete "(l)" and insert "(j)".

Page 4, line 31, delete "under this section" and insert "**under IC 9-30-6-6**".

Renumber all SECTIONS consecutively.  
and when so amended that said bill do pass.

(Reference is to SB 333 as introduced.)

HEAD, Chairperson

Committee Vote: Yeas 8, Nays 3.

