

SENATE BILL No. 168

DIGEST OF INTRODUCED BILL

Citations Affected: IC 35-48-7-11.1.

Synopsis: Access to controlled substance data base. Permits physicians who hold a temporary medical license to have access to confidential information in the Indiana scheduled prescription electronic collection and tracking (INSPECT) program.

Effective: July 1, 2015.

Miller Patricia

January 6, 2015, read first time and referred to Committee on Health & Provider Services.



First Regular Session 119th General Assembly (2015)

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 2014 Regular Session and 2014 Second Regular Technical Session of the General Assembly.

SENATE BILL No. 168

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 35-48-7-11.1, AS AMENDED BY P.L.131-2014,
2 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2015]: Sec. 11.1. (a) Information received by the INSPECT
4 program under section 8.1 of this chapter is confidential.
5 (b) The board shall carry out a program to protect the confidentiality
6 of the information described in subsection (a). The board may disclose
7 the information to another person only under subsection (c), (d), or (g).
8 (c) The board may disclose confidential information described in
9 subsection (a) to any person who is authorized to engage in receiving,
10 processing, or storing the information.
11 (d) Except as provided in subsections (e) and (f), the board may
12 release confidential information described in subsection (a) to the
13 following persons:
14 (1) A member of the board or another governing body that
15 licenses practitioners and is engaged in an investigation, an
16 adjudication, or a prosecution of a violation under any state or



1 federal law that involves a controlled substance.

2 (2) An investigator for the consumer protection division of the
3 office of the attorney general, a prosecuting attorney, the attorney
4 general, a deputy attorney general, or an investigator from the
5 office of the attorney general, who is engaged in:

- 6 (A) an investigation;
- 7 (B) an adjudication; or
- 8 (C) a prosecution;

9 of a violation under any state or federal law that involves a
10 controlled substance.

11 (3) A law enforcement officer who is an employee of:

- 12 (A) a local, state, or federal law enforcement agency; or
- 13 (B) an entity that regulates controlled substances or enforces
14 controlled substances rules or laws in another state;

15 that is certified to receive controlled substance prescription drug
16 information from the INSPECT program.

17 (4) A practitioner or practitioner's agent certified to receive
18 information from the INSPECT program.

19 (5) A controlled substance monitoring program in another state
20 with which Indiana has established an interoperability agreement.

21 (6) The state toxicologist.

22 (7) A certified representative of the Medicaid retrospective and
23 prospective drug utilization review program.

24 (8) A substance abuse assistance program for a licensed health
25 care provider who:

- 26 (A) has prescriptive authority under IC 25; and
- 27 (B) is participating in the assistance program.

28 **(9) An individual who holds a valid temporary medical permit**
29 **issued under IC 25-22.5-5-4 or IC 25-22.5-5-4.6.**

30 (e) Information provided to an individual under:

31 (1) subsection (d)(3) is limited to information:

- 32 (A) concerning an individual or proceeding involving the
33 unlawful diversion or misuse of a schedule II, III, IV, or V
34 controlled substance; and
- 35 (B) that will assist in an investigation or proceeding; and

36 (2) subsection (d)(4) may be released only for the purpose of:

- 37 (A) providing medical or pharmaceutical treatment; or
- 38 (B) evaluating the need for providing medical or
39 pharmaceutical treatment to a patient.

40 (f) Before the board releases confidential information under
41 subsection (d), the applicant must be approved by the INSPECT
42 program in a manner prescribed by the board.



1 (g) The board may release to:

2 (1) a member of the board or another governing body that licenses
3 practitioners;

4 (2) an investigator for the consumer protection division of the
5 office of the attorney general, a prosecuting attorney, the attorney
6 general, a deputy attorney general, or an investigator from the
7 office of the attorney general; or

8 (3) a law enforcement officer who is:

9 (A) authorized by the state police department to receive
10 controlled substance prescription drug information; and

11 (B) approved by the board to receive the type of information
12 released;

13 confidential information generated from computer records that
14 identifies practitioners who are prescribing or dispensing large
15 quantities of a controlled substance.

16 (h) The information described in subsection (g) may not be released
17 until it has been reviewed by:

18 (1) a member of the board who is licensed in the same profession
19 as the prescribing or dispensing practitioner identified by the data;

20 or

21 (2) the board's designee;

22 and until that member or the designee has certified that further
23 investigation is warranted. However, failure to comply with this
24 subsection does not invalidate the use of any evidence that is otherwise
25 admissible in a proceeding described in subsection (i).

26 (i) An investigator or a law enforcement officer receiving
27 confidential information under subsection (c), (d), or (g) may disclose
28 the information to a law enforcement officer or an attorney for the
29 office of the attorney general for use as evidence in the following:

30 (1) A proceeding under IC 16-42-20.

31 (2) A proceeding under any state or federal law that involves a
32 controlled substance.

33 (3) A criminal proceeding or a proceeding in juvenile court that
34 involves a controlled substance.

35 (j) The board may compile statistical reports from the information
36 described in subsection (a). The reports must not include information
37 that identifies any practitioner, ultimate user, or other person
38 administering a controlled substance. Statistical reports compiled under
39 this subsection are public records.

40 (k) Except as provided in IC 25-22.5-13, this section may not be
41 construed to require a practitioner to obtain information about a patient
42 from the data base.



1 (l) A practitioner is immune from civil liability for an injury, death,
2 or loss to a person solely due to a practitioner seeking or not seeking
3 information from the INSPECT program. The civil immunity described
4 in this subsection does not extend to a practitioner if the practitioner
5 receives information directly from the INSPECT program and then
6 negligently misuses this information. This subsection does not apply to
7 an act or omission that is a result of gross negligence or intentional
8 misconduct.

9 (m) The board may review the records of the INSPECT program. If
10 the board determines that a violation of the law may have occurred, the
11 board shall notify the appropriate law enforcement agency or the
12 relevant government body responsible for the licensure, regulation, or
13 discipline of practitioners authorized by law to prescribe controlled
14 substances.

15 (n) A practitioner who in good faith discloses information based on
16 a report from the INSPECT program to a law enforcement agency is
17 immune from criminal or civil liability. A practitioner that discloses
18 information to a law enforcement agency under this subsection is
19 presumed to have acted in good faith.

