



January 15, 2015

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## SENATE BILL No. 168

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DIGEST OF SB 168 (Updated January 14, 2015 11:04 am - DI 104)

**Citations Affected:** IC 35-48.

**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.

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**Miller Patricia, Brown L, Arnold J**

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January 6, 2015, read first time and referred to Committee on Health & Provider Services.  
January 14, 2015, reported favorably — Do Pass.

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SB 168—LS 6319/DI 104





January 15, 2015

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

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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 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

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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.



COMMITTEE REPORT

Madam President: The Senate Committee on Health & Provider Services, to which was referred Senate Bill No. 168, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is to SB 168 as introduced.)

MILLER PATRICIA, Chairperson

Committee Vote: Yeas 9, Nays 0

