

# HOUSE BILL REPORT

## ESHB 1594

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### As Passed House:

March 9, 1995

**Title:** An act relating to persons rendering aid who had contact with the blood of an injured person.

**Brief Description:** Requiring blood tests of injured persons if persons rendering aid came in contact with their blood.

**Sponsors:** By House Committee on Law & Justice (originally sponsored by Representatives Foreman, Sherstad, Campbell, Benton, McMahan, Elliot, Chandler and Hargrove).

### Brief History:

#### Committee Activity:

Law & Justice: 2/17/95, 2/28/95 [DPS].

#### Floor Activity:

Passed House: 3/9/95, 72-24.

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### HOUSE COMMITTEE ON LAW & JUSTICE

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 12 members: Representatives Padden, Chairman; Delvin, Vice Chairman; Hickel, Vice Chairman; Campbell; Carrell; Chappell; Lambert; McMahan; Morris; Robertson; Sheahan and Smith.

**Minority Report:** Do not pass. Signed by 5 members: Representatives Appelwick, Ranking Minority Member; Costa, Assistant Ranking Minority Member; Cody; Thibaudeau and Veloria.

**Staff:** Edie Adams (786-7180).

**Background:** The Public Health Chapter of the Revised Code of Washington provides local public health departments with authority to investigate persons reasonably believed to be infected with the human immunodeficiency virus (HIV) and establish programs to combat the spread of HIV. Persons may not be required to undergo an HIV test without their consent except in limited circumstances.

Law enforcement officers, fire fighters, health care providers, or staff of health care facilities who have experienced a substantial exposure to another person's bodily

fluids during the course of employment may request a health officer to order an HIV test of the person whose bodily fluids he or she has been exposed to. Authorized volunteers in these occupations may also request that a test be ordered if they have been substantially exposed to another's bodily fluids. If the person ordered to undergo the HIV test refuses, the public health officer may petition the superior court for a hearing. If the court determines that substantial exposure occurred and that the exposure presents a possible risk of transmission of HIV, the court shall order the person to undergo an HIV test.

The test results of any person tested for HIV may not be disclosed or compelled to be disclosed except in limited circumstances. These circumstances include disclosure to a law enforcement officer, fire fighter, or health care provider who has requested a test of a person whose bodily fluids he or she has been substantially exposed to. In addition, a person determined by a court to have "good cause" for access to the test results may compel disclosure of the results. In determining whether there is good cause, the court must weigh the public interest and the need for disclosure against the injury to the patient, to the patient-physician relationship, and to the treatment services.

There are no similar mandatory testing and test result disclosure provisions for other blood-borne diseases.

**Summary of Bill:** An injured person who receives emergency medical treatment at the scene of an emergency, or is transported for emergency medical care by a person who renders the care with or without the expectation of compensation shall submit to blood tests to determine the presence of any blood-borne diseases, if requested by the person who rendered aid and who had contact with the blood of the injured person.

A person rendering emergency care to an injured person at the scene of an emergency shall submit to blood tests to detect the presence of any blood-borne diseases, if requested by the injured person and if the injured person had contact with the blood of the person rendering emergency care.

The Department of Health is required to adopt guidelines concerning the procedures for testing injured persons and persons rendering care. The person conducting the blood tests or the Department of Health shall notify the person who requested the test of the test results. A person who receives the test results of another person may not disclose the identity of the person whose blood was tested to any other person. It is a gross misdemeanor to disclose test results in violation of the act.

"Emergency care" means care, first aid, treatment, or assistance rendered to a person in need of immediate medical attention and includes providing or arranging for further medical treatment. "Compensation" does not include nominal payments, reimbursement for expenses, or payments made to volunteer, part-time and on-call

personnel of fire departments, fire districts, ambulance districts, police departments, or any emergency response organization.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Effective Date of Bill:** Ninety days after adjournment of session in which bill is passed.

**Testimony For:** A good samaritan who comes to the aid of an injured person, and who has been exposed to that injured person's blood, should be able to receive information on blood test results of the injured person so that the good samaritan will know what health care precautions he or she should take. The concept of the bill is a good one. A good samaritan should be able to receive test results when he or she has been substantially exposed to the blood of an injured person. However, the provisions of the bill should be placed in the public health code which contains procedures for conducting such tests.

**Testimony Against:** None.

**Testified:** Representative Foreman, prime sponsor (pro); and Maxine Hayes, Department of Health (pro with amendment).