
HOUSE BILL 1284

State of Washington

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By Representatives Fuhrman, Campbell, Stevens, Goldsmith, Padden, Mulliken, Koster, Crouse, Buck, Thompson, Hargrove, Smith, Pelesky, McMahan, Sheahan, Talcott, Boldt, Pennington and Johnson

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1 AN ACT Relating to testing of unemancipated minors for sexually
2 transmitted diseases and HIV virus; and amending RCW 70.24.105 and
3 70.24.110;

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 **Sec. 1.** RCW 70.24.105 and 1994 c 72 s 1 are each amended to read
6 as follows:

7 (1) No person may disclose or be compelled to disclose the identity
8 of any person who has investigated, considered, or requested a test or
9 treatment for a sexually transmitted disease, except as authorized by
10 this chapter.

11 (2) No person may disclose or be compelled to disclose the identity
12 of any person upon whom an HIV antibody test is performed, or the
13 results of such a test, nor may the result of a test for any other
14 sexually transmitted disease when it is positive be disclosed. This
15 protection against disclosure of test subject, diagnosis, or treatment
16 also applies to any information relating to diagnosis of or treatment
17 for HIV infection and for any other confirmed sexually transmitted
18 disease. The following persons, however, may receive such information:

1 (a) The subject of the test, or the subject's legal representative
2 for health care decisions in accordance with RCW 7.70.065(~~(, with the~~
3 ~~exception of such a representative of a minor child over fourteen years~~
4 ~~of age and otherwise competent))~~, and the parent, guardian, or
5 custodian of an unemancipated minor who is the subject of the test;

6 (b) Any person who secures a specific release of test results or
7 information relating to HIV or confirmed diagnosis of or treatment for
8 any other sexually transmitted disease executed by the subject or the
9 subject's legal representative for health care decisions in accordance
10 with RCW 7.70.065, with the exception of such a representative of a
11 minor child over fourteen years of age and otherwise competent;

12 (c) The state public health officer, a local public health officer,
13 or the centers for disease control of the United States public health
14 service in accordance with reporting requirements for a diagnosed case
15 of a sexually transmitted disease;

16 (d) A health facility or health care provider that procures,
17 processes, distributes, or uses: (i) A human body part, tissue, or
18 blood from a deceased person with respect to medical information
19 regarding that person; (ii) semen, including that provided prior to
20 March 23, 1988, for the purpose of artificial insemination; or (iii)
21 blood specimens;

22 (e) Any state or local public health officer conducting an
23 investigation pursuant to RCW 70.24.024, provided that such record was
24 obtained by means of court ordered HIV testing pursuant to RCW
25 70.24.340 or 70.24.024;

26 (f) A person allowed access to the record by a court order granted
27 after application showing good cause therefor. In assessing good
28 cause, the court shall weigh the public interest and the need for
29 disclosure against the injury to the patient, to the physician-patient
30 relationship, and to the treatment services. Upon the granting of the
31 order, the court, in determining the extent to which any disclosure of
32 all or any part of the record of any such test is necessary, shall
33 impose appropriate safeguards against unauthorized disclosure. An
34 order authorizing disclosure shall: (i) Limit disclosure to those
35 parts of the patient's record deemed essential to fulfill the objective
36 for which the order was granted; (ii) limit disclosure to those persons
37 whose need for information is the basis for the order; and (iii)
38 include any other appropriate measures to keep disclosure to a minimum
39 for the protection of the patient, the physician-patient relationship,

1 and the treatment services, including but not limited to the written
2 statement set forth in subsection (5) of this section;

3 (g) Persons who, because of their behavioral interaction with the
4 infected individual, have been placed at risk for acquisition of a
5 sexually transmitted disease, as provided in RCW 70.24.022, if the
6 health officer or authorized representative believes that the exposed
7 person was unaware that a risk of disease exposure existed and that the
8 disclosure of the identity of the infected person is necessary;

9 (h) A law enforcement officer, fire fighter, health care provider,
10 health care facility staff person, or other persons as defined by the
11 board in rule pursuant to RCW 70.24.340(4), who has requested a test of
12 a person whose bodily fluids he or she has been substantially exposed
13 to, pursuant to RCW 70.24.340(4), if a state or local public health
14 officer performs the test;

15 (i) Claims management personnel employed by or associated with an
16 insurer, health care service contractor, health maintenance
17 organization, self-funded health plan, state-administered health care
18 claims payer, or any other payer of health care claims where such
19 disclosure is to be used solely for the prompt and accurate evaluation
20 and payment of medical or related claims. Information released under
21 this subsection shall be confidential and shall not be released or
22 available to persons who are not involved in handling or determining
23 medical claims payment; and

24 (j) A department of social and health services worker, a child
25 placing agency worker, or a guardian ad litem who is responsible for
26 making or reviewing placement or case-planning decisions or
27 recommendations to the court regarding (~~a child, who is less than~~
28 ~~fourteen years of age~~) an unemancipated minor, has a sexually
29 transmitted disease, and is in the custody of the department of social
30 and health services or a licensed child placing agency; this
31 information may also be received by a person responsible for providing
32 residential care for such a (~~child~~) minor when the department of
33 social and health services or a licensed child placing agency
34 determines that it is necessary for the provision of child care
35 services.

36 (3) No person to whom the results of a test for a sexually
37 transmitted disease have been disclosed pursuant to subsection (2) of
38 this section may disclose the test results to another person except as
39 authorized by that subsection.

1 (4) The release of sexually transmitted disease information
2 regarding an offender, except as provided in subsection (2)(e) of this
3 section, shall be governed as follows:

4 (a) The sexually transmitted disease status of a department of
5 corrections offender shall be made available by department of
6 corrections health care providers to a department of corrections
7 superintendent or administrator as necessary for disease prevention or
8 control and for protection of the safety and security of the staff,
9 offenders, and the public. The information may be submitted to
10 transporting officers and receiving facilities, including facilities
11 that are not under the department of correction's jurisdiction.

12 (b) The sexually transmitted disease status of a person detained in
13 a jail shall be made available by the local public health officer to a
14 jail administrator as necessary for disease prevention or control and
15 for protection of the safety and security of the staff, offenders, and
16 the public. The information may be submitted to transporting officers
17 and receiving facilities.

18 (c) Information regarding a department of corrections offender's
19 sexually transmitted disease status is confidential and may be
20 disclosed by a correctional superintendent or administrator or local
21 jail administrator only as necessary for disease prevention or control
22 and for protection of the safety and security of the staff, offenders,
23 and the public. Unauthorized disclosure of this information to any
24 person may result in disciplinary action, in addition to any other
25 penalties as may be prescribed by law.

26 (5) Whenever disclosure is made pursuant to this section, except
27 for subsections (2)(a) and (6) of this section, it shall be accompanied
28 by a statement in writing which includes the following or substantially
29 similar language: "This information has been disclosed to you from
30 records whose confidentiality is protected by state law. State law
31 prohibits you from making any further disclosure of it without the
32 specific written consent of the person to whom it pertains, or as
33 otherwise permitted by state law. A general authorization for the
34 release of medical or other information is NOT sufficient for this
35 purpose." An oral disclosure shall be accompanied or followed by such
36 a notice within ten days.

37 (6) The requirements of this section shall not apply to the
38 customary methods utilized for the exchange of medical information
39 among health care providers in order to provide health care services to

1 the patient, nor shall they apply within health care facilities where
2 there is a need for access to confidential medical information to
3 fulfill professional duties.

4 (7) Upon request of the victim, disclosure of test results under
5 this section to victims of sexual offenses under chapter 9A.44 RCW
6 shall be made if the result is negative or positive. The county
7 prosecuting attorney shall notify the victim of the right to such
8 disclosure. Such disclosure shall be accompanied by appropriate
9 counseling, including information regarding follow-up testing.

10 (8) Unemancipated minors may not be tested for sexually transmitted
11 diseases or HIV virus without the consent of a parent, guardian, or
12 custodian. Test results shall be sent to the parent, guardian, or
13 custodian.

14 **Sec. 2.** RCW 70.24.110 and 1988 c 206 s 912 are each amended to
15 read as follows:

16 ((A)) An emancipated minor ((fourteen years of age or older)) who
17 may have come in contact with any sexually transmitted disease or
18 suspected sexually transmitted disease may give consent to the
19 furnishing of hospital, medical and surgical care related to the
20 diagnosis or treatment of such disease. Such consent ((shall)) by the
21 emancipated minor is not ((be)) subject to disaffirmance because of
22 minority. The consent of the parent, parents, or legal guardian of
23 such emancipated minor ((shall)) is not ((be)) necessary to authorize
24 hospital, medical and surgical care related to such disease and such
25 parent, parents, or legal guardian ((shall)) are not ((be)) liable for
26 payment for any care rendered pursuant to this section. Unemancipated
27 minors may not consent to the testing, care, and treatment of sexually
28 transmitted diseases.

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