
SENATE BILL 6285

State of Washington

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By Senators Zarelli, Roach, Schow, Long, McCaslin, Morton, Hochstatter, Swecker, Hargrove, Hale, Strannigan, Oke, Wood, Finkbeiner, Deccio, Johnson, A. Anderson, Cantu, Moyer and West

Read first time 01/10/96. Referred to Committee on Human Services & Corrections.

1 AN ACT Relating to disclosure of offenders' HIV test results to
2 department of corrections and jail staff; and amending RCW 70.24.015
3 and 70.24.105.

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

5 **Sec. 1.** RCW 70.24.015 and 1988 c 206 s 901 are each amended to
6 read as follows:

7 The legislature declares that sexually transmitted diseases
8 constitute a serious and sometimes fatal threat to the public and
9 individual health and welfare of the people of the state. The
10 legislature finds that the incidence of sexually transmitted diseases
11 is rising at an alarming rate and that these diseases result in
12 significant social, health, and economic costs, including infant and
13 maternal mortality, temporary and lifelong disability, and premature
14 death. The legislature further finds that sexually transmitted
15 diseases, by their nature, involve sensitive issues of privacy, and it
16 is the intent of the legislature that all programs designed to deal
17 with these diseases afford patients privacy, confidentiality, and
18 dignity. The legislature also finds that medical knowledge and
19 information about sexually transmitted diseases are rapidly changing.

1 It is therefore the intent of the legislature to provide a program that
2 is sufficiently flexible to meet emerging needs, deals efficiently and
3 effectively with reducing the incidence of sexually transmitted
4 diseases, and provides patients with a secure knowledge that
5 information they provide will remain private and confidential. The
6 legislature further finds that department of corrections staff and jail
7 staff are vital to our communities. Often these workers have their
8 health placed in jeopardy while performing the duties of their jobs.
9 Therefore, it is the intent of the legislature that department of
10 corrections staff and jail staff who come into regular contact with
11 offenders be protected through notification of an offender's HIV
12 antibody test result when that result is known.

13 **Sec. 2.** RCW 70.24.105 and 1994 c 72 s 1 are each amended to read
14 as follows:

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

19 (2) No person may disclose or be compelled to disclose the identity
20 of any person upon whom an HIV antibody test is performed, or the
21 results of such a test, nor may the result of a test for any other
22 sexually transmitted disease when it is positive be disclosed. This
23 protection against disclosure of test subject, diagnosis, or treatment
24 also applies to any information relating to diagnosis of or treatment
25 for HIV infection and for any other confirmed sexually transmitted
26 disease. The following persons, however, may receive such information:

27 (a) The subject of the test or the subject's legal representative
28 for health care decisions in accordance with RCW 7.70.065, with the
29 exception of such a representative of a minor child over fourteen years
30 of age and otherwise competent;

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

37 (c) The state public health officer, a local public health officer,
38 or the centers for disease control of the United States public health

1 service in accordance with reporting requirements for a diagnosed case
2 of a sexually transmitted disease;

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

9 (e) Any state or local public health officer conducting an
10 investigation pursuant to RCW 70.24.024, provided that such record was
11 obtained by means of court ordered HIV testing pursuant to RCW
12 70.24.340 or 70.24.024;

13 (f) A person allowed access to the record by a court order granted
14 after application showing good cause therefor. In assessing good
15 cause, the court shall weigh the public interest and the need for
16 disclosure against the injury to the patient, to the physician-patient
17 relationship, and to the treatment services. Upon the granting of the
18 order, the court, in determining the extent to which any disclosure of
19 all or any part of the record of any such test is necessary, shall
20 impose appropriate safeguards against unauthorized disclosure. An
21 order authorizing disclosure shall: (i) Limit disclosure to those
22 parts of the patient's record deemed essential to fulfill the objective
23 for which the order was granted; (ii) limit disclosure to those persons
24 whose need for information is the basis for the order; and (iii)
25 include any other appropriate measures to keep disclosure to a minimum
26 for the protection of the patient, the physician-patient relationship,
27 and the treatment services, including but not limited to the written
28 statement set forth in subsection (5) of this section;

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

35 (h) A law enforcement officer, fire fighter, health care provider,
36 health care facility staff person, or other persons as defined by the
37 board in rule pursuant to RCW 70.24.340(4), who has requested a test of
38 a person whose bodily fluids he or she has been substantially exposed

1 to, pursuant to RCW 70.24.340(4), if a state or local public health
2 officer performs the test;

3 (i) Claims management personnel employed by or associated with an
4 insurer, health care service contractor, health maintenance
5 organization, self-funded health plan, state-administered health care
6 claims payer, or any other payer of health care claims where such
7 disclosure is to be used solely for the prompt and accurate evaluation
8 and payment of medical or related claims. Information released under
9 this subsection shall be confidential and shall not be released or
10 available to persons who are not involved in handling or determining
11 medical claims payment; and

12 (j) A department of social and health services worker, a child
13 placing agency worker, or a guardian ad litem who is responsible for
14 making or reviewing placement or case-planning decisions or
15 recommendations to the court regarding a child, who is less than
16 fourteen years of age, has a sexually transmitted disease, and is in
17 the custody of the department of social and health services or a
18 licensed child placing agency; this information may also be received by
19 a person responsible for providing residential care for such a child
20 when the department of social and health services or a licensed child
21 placing agency determines that it is necessary for the provision of
22 child care services.

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

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

30 (a) The sexually transmitted disease status of a department of
31 corrections offender shall be made available by department of
32 corrections health care providers to a department of corrections
33 superintendent or administrator (~~(as necessary)~~) for disease prevention
34 or control and for protection of the safety and security of the staff,
35 offenders, and the public. The information (~~(may)~~) must be submitted
36 to transporting officers and receiving facilities, including facilities
37 that are not under the department of correction's jurisdiction. In
38 addition, the information must be disclosed to department of
39 corrections staff who may come into contact with the offender.

1 (b) The sexually transmitted disease status of a person detained
2 in a jail shall be made available by the local public health officer
3 to a jail administrator (~~((as necessary))~~) for disease prevention or
4 control and for protection of the safety and security of the staff,
5 offenders, and the public. The information (~~((may))~~) must be submitted
6 to transporting officers and receiving facilities. In addition, the
7 information must be disclosed to jail staff who may come into contact
8 with the offender.

9 (c) Information regarding a department of corrections offender's
10 sexually transmitted disease status is confidential and (~~((may))~~) must
11 be disclosed by a correctional superintendent or administrator or
12 local jail administrator only (~~((as necessary))~~) to department of
13 corrections staff or jail staff for disease prevention or control and
14 for protection of the safety and security of the staff, offenders,
15 and the public. Unauthorized disclosure of this information to any
16 person may result in disciplinary action, in addition to any other
17 penalties as may be prescribed by law.

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

29 (6) The requirements of this section shall not apply to the
30 customary methods utilized for the exchange of medical information
31 among health care providers in order to provide health care services
32 to the patient, nor shall they apply within health care facilities
33 where there is a need for access to confidential medical information
34 to fulfill professional duties.

35 (7) Upon request of the victim, disclosure of test results under
36 this section to victims of sexual offenses under chapter 9A.44 RCW
37 shall be made if the result is negative or positive. The county
38 prosecuting attorney shall notify the victim of the right to such

1 disclosure. Such disclosure shall be accompanied by appropriate
2 counseling, including information regarding follow-up testing.

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