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HOUSE BILL 2413

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State of Washington

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By Representatives Pennington, Carlson, Ogden, Thompson, Dunn and Backlund

Read first time 01/13/98. Referred to Committee on Health Care.

1 AN ACT Relating to disclosure of sexually transmitted disease  
2 information; and reenacting and amending RCW 70.24.105.

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

4 **Sec. 1.** RCW 70.24.105 and 1997 c 345 s 2 and 1997 c 196 s 6 are  
5 each reenacted and amended to read as follows:

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

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

18 (a) The subject of the test or the subject's legal representative  
19 for health care decisions in accordance with RCW 7.70.065, with the

1 exception of such a representative of a minor child over fourteen years  
2 of age and otherwise competent;

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

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

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

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

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

1       (g) (~~Local law enforcement agencies to the extent provided in RCW~~  
2 ~~70.24.034;~~

3       (h)) 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       (~~(i))~~) (h) A law enforcement officer, fire fighter, health care  
10 provider, health care facility staff person, department of correction's  
11 staff person, jail staff person, a person rendering emergency care or  
12 transportation, commonly known as a "good Samaritan," as described in  
13 RCW 4.24.300 and 4.24.310, or other persons as defined by the board in  
14 rule pursuant to RCW 70.24.340(4), who has requested a test of a person  
15 whose bodily fluids he or she has been substantially exposed to,  
16 pursuant to RCW 70.24.340(4), if a state or local public health officer  
17 performs the test;

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

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

38       (3) No person to whom the results of a test for a sexually  
39 transmitted disease have been disclosed pursuant to subsection (2) of

1 this section may disclose the test results to another person except as  
2 authorized by that subsection.

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

6 (a) The sexually transmitted disease status of a department of  
7 corrections offender who has had a mandatory test conducted pursuant to  
8 RCW 70.24.340(1), 70.24.360, or 70.24.370 shall be made available by  
9 department of corrections health care providers and local public health  
10 officers to the department of corrections health care administrator or  
11 infection control coordinator of the facility in which the offender is  
12 housed. The information made available to the health care  
13 administrator or the infection control coordinator under this  
14 subsection (4)(a) shall be used only for disease prevention or control  
15 and for protection of the safety and security of the staff, offenders,  
16 and the public. The information may be submitted to transporting  
17 officers and receiving facilities, including facilities that are not  
18 under the department of corrections' jurisdiction according to the  
19 provisions of (d) and (e) of this subsection.

20 (b) The sexually transmitted disease status of a person detained in  
21 a jail who has had a mandatory test conducted pursuant to RCW  
22 70.24.340(1), 70.24.360, or 70.24.370 shall be made available by the  
23 local public health officer to a jail health care administrator or  
24 infection control coordinator. The information made available to a  
25 health care administrator under this subsection (4)(b) shall be used  
26 only for disease prevention or control and for protection of the safety  
27 and security of the staff, offenders, detainees, and the public. The  
28 information may be submitted to transporting officers and receiving  
29 facilities according to the provisions of (d) and (e) of this  
30 subsection.

31 (c) Information regarding the sexually transmitted disease status  
32 of an offender or detained person is confidential and may be disclosed  
33 by a correctional health care administrator or infection control  
34 coordinator or local jail health care administrator or infection  
35 control coordinator only as necessary for disease prevention or control  
36 and for protection of the safety and security of the staff, offenders,  
37 and the public. Unauthorized disclosure of this information to any  
38 person may result in disciplinary action, in addition to the penalties

1 prescribed in RCW 70.24.080 or any other penalties as may be prescribed  
2 by law.

3 (d) Notwithstanding the limitations on disclosure contained in (a),  
4 (b), and (c) of this subsection, whenever any member of a jail staff or  
5 department of corrections staff has been substantially exposed to the  
6 bodily fluids of an offender or detained person, then the results of  
7 any tests conducted pursuant to RCW 70.24.340(1), 70.24.360, or  
8 70.24.370, shall be immediately disclosed to the staff person in  
9 accordance with the Washington Administrative Code rules governing  
10 employees' occupational exposure to bloodborne pathogens. Disclosure  
11 must be accompanied by appropriate counseling for the staff member,  
12 including information regarding follow-up testing and treatment.  
13 Disclosure shall also include notice that subsequent disclosure of the  
14 information in violation of this chapter or use of the information to  
15 harass or discriminate against the offender or detainee may result in  
16 disciplinary action, in addition to the penalties prescribed in RCW  
17 70.24.080, and imposition of other penalties prescribed by law.

18 (e) The staff member shall also be informed whether the offender or  
19 detained person had any other communicable disease, as defined in RCW  
20 72.09.251(3), when the staff person was substantially exposed to the  
21 offender's or detainee's bodily fluids.

22 (f) The test results of voluntary and anonymous HIV testing or HIV-  
23 related condition may not be disclosed to a staff person except as  
24 provided in subsection (2)((+i)) (h) of this section and RCW  
25 70.24.340(4). A health care administrator or infection control  
26 coordinator may provide the staff member with information about how to  
27 obtain the offender's or detainee's test results under subsection  
28 (2)((+i)) (h) of this section and RCW 70.24.340(4).

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

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

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

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