

# SENATE BILL REPORT

## EHB 1099

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As of March 16, 1995

**Title:** An act relating to human immunodeficiency virus testing for persons arrested for prostitution and patronizing a prostitute.

**Brief Description:** Requiring HIV testing for persons arrested for being involved with prostitution.

**Sponsors:** Representatives Scott, Appelwick, Padden, Campbell, Sherstad and Benton.

**Brief History:**

**Committee Activity:** Law & Justice: 3/22/95.

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### SENATE COMMITTEE ON LAW & JUSTICE

**Staff:** Lidia Mori (786-7755)

**Background:** The public health chapter of the Revised Code of Washington covering sexually transmitted diseases provides that local health departments may investigate, examine, and counsel persons reasonably believed to be infected with, or to have been exposed to, a sexually transmitted disease, including the human immunodeficiency virus (HIV).

No person may be required to undergo HIV testing without the person's consent except in a few circumstances. These circumstances include persons convicted of a sexual offense, persons convicted of a drug offense associated with the use of a hypodermic needle, and persons convicted of prostitution or offenses relating to prostitution.

All mandatory drug tests for persons convicted of a specified offense must occur soon after sentencing upon an order of the sentencing judge. All tests are to be performed by the local health department and must include both pretest and posttest counseling.

The results of an HIV test required by the chapter may not be disclosed, except in limited circumstances, to protect the privacy of the tested person. Anyone who obtains the test results under one of the exceptions may not disclose the results to anyone else, with certain limited exceptions. A violation of the confidentiality restriction is a gross misdemeanor.

**Summary of Bill:** Any person arrested for prostitution or patronizing a prostitute must submit to a test, approved by the State Board of Health, to detect exposure to the human immunodeficiency virus. The person pays \$100 for the cost of the test if the person is convicted of the charge of prostitution or patronizing a prostitute.

The results of the test are transmitted to the arresting law enforcement agency. The agency informs the court of the test results if the results are negative. If the results are positive, the agency must mail the results, return receipt requested, to the person arrested and place the

returned receipt in the agency's file or, if the person is in custody, personally deliver the results to the person and place an affidavit of service in the agency's file.

A person arrested for prostitution or patronizing a prostitute must appear before the court 45 days after arraignment, unless the court is notified by the arresting law enforcement agency that the results of the test are negative, or the person notifies the court in writing that he or she received the test results.

At the reappearance, the court must ask the person whether he or she received the results of the test. If the person answers in the affirmative, the court notes the answer in the court records. If the person answers that he or she did not receive the test results, the court orders the results delivered to the person and directs that an affidavit of service be placed in the agency's file. The court may cause a bench warrant to be issued for any person who does not reappear as ordered.

A person is guilty of assault in the second degree if that person violates the offense of prostitution or patronizing a prostitute after testing positive in a test approved by the State Board of Health to detect exposure to the HIV virus, and receiving notice of that fact.

**Appropriation:** None.

**Fiscal Note:** Available.

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