

CERTIFICATION OF ENROLLMENT

SUBSTITUTE HOUSE BILL 2151

Chapter 72, Laws of 1994

53rd Legislature
1994 Regular Session

HIV TEST RESULTS DISCLOSURE--SEX OFFENSE VICTIMS

EFFECTIVE DATE: 6/9/94

Passed by the House February 9, 1994
Yeas 97 Nays 0

BRIAN EBERSOLE

**Speaker of the
House of Representatives**

Passed by the Senate March 2, 1994
Yeas 45 Nays 2

R. LORRAINE WOJAHN

President of the Senate

Approved March 23, 1994

MIKE LOWRY

Governor of the State of Washington

CERTIFICATE

I, Marilyn Showalter, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SUBSTITUTE HOUSE BILL 2151** as passed by the House of Representatives and the Senate on the dates hereon set forth.

MARILYN SHOWALTER

Chief Clerk

FILED

March 23, 1994 - 9:33 a.m.

**Secretary of State
State of Washington**

SUBSTITUTE HOUSE BILL 2151

Passed Legislature - 1994 Regular Session

State of Washington 53rd Legislature 1994 Regular Session

By House Committee on Health Care (originally sponsored by Representatives L. Johnson, Ballasiotes, Dellwo, Chappell, Cothorn, Conway, Thibaudeau, Talcott, Wood, Heavey, Sheldon, Van Luven, Campbell, Brough, Dorn, Lemmon, Long, Dyer, Kessler, Holm, Wineberry, Basich, Romero, Springer, Hansen, H. Myers, Leonard and Foreman)

Read first time 02/04/94.

1 AN ACT Relating to disclosure of HIV test results to victims of sex
2 offenses; 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 1989 c 123 s 1 are each amended to read
5 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) Persons who, because of their behavioral interaction with the
2 infected individual, have been placed at risk for acquisition of a
3 sexually transmitted disease, as provided in RCW 70.24.022, if the
4 health officer or authorized representative believes that the exposed
5 person was unaware that a risk of disease exposure existed and that the
6 disclosure of the identity of the infected person is necessary;

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

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

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

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

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

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

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

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

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

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

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

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Passed the Senate March 2, 1994.

Approved by the Governor March 23, 1994.

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