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**SUBSTITUTE SENATE BILL 5039**

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**State of Washington**

**58th Legislature**

**2003 Regular Session**

**By** Senate Committee on Health & Long-Term Care (originally sponsored by Senators Kastama, Thibaudeau and Kohl-Welles)

READ FIRST TIME 02/28/03.

1       AN ACT Relating to hepatitis C; amending RCW 49.60.172 and  
2 49.60.174; adding a new section to chapter 70.54 RCW; and providing an  
3 expiration date.

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

5       NEW SECTION. **Sec. 1.** A new section is added to chapter 70.54 RCW  
6 to read as follows:

7       (1) The secretary of health shall seek and accept funding from  
8 federal and private sources, including grants, to design a state plan  
9 for the prevention and management of hepatitis C by July 1, 2004. In  
10 developing the plan, the secretary shall consider the recommendations  
11 of:

12       (a) The University of Washington medical center;

13       (b) The public;

14       (c) Patient groups and organizations;

15       (d) The department of social and health services, the department of  
16 corrections, the department of labor and industries, and the board of  
17 health;

18       (e) Local health departments;

19       (f) Public health and clinical laboratories;

- 1 (g) Providers of services to persons with hepatitis C;
- 2 (h) Research scientists; and
- 3 (i) The centers for disease control and prevention, or other  
4 advisory body that addresses issues related to hepatitis C.
- 5 (2) The plan shall include but not be limited to:
- 6 (a) Assessment and development of standards for educational  
7 programs, including public school education, to heighten awareness and  
8 enhance knowledge and understanding of hepatitis C;
- 9 (b) Assessment and development of standards for education curricula  
10 for health and health-related providers covered by the uniform  
11 disciplinary act, chapter 18.130 RCW;
- 12 (c) Assessment and development of standards for a training course  
13 for persons providing hepatitis C counseling, which shall include  
14 information relating to the special needs of persons with positive  
15 hepatitis C test results, including the importance of early  
16 intervention and treatment and recognition of psychosocial needs;
- 17 (d) Assessment and development of standards for a training course  
18 for public health clinic staff regarding the treatment, detection, and  
19 methods of transmission of hepatitis C;
- 20 (e) Assessment of capacity for voluntary hepatitis C testing  
21 programs to be performed at facilities providing voluntary HIV testing  
22 under chapter 70.24 RCW, with anonymous and confidential hepatitis C  
23 testing, and pretest and posttest counseling available;
- 24 (f) Strategies for the prevention and management of hepatitis C in  
25 injection drug users and persons incarcerated in Washington  
26 correctional institutions;
- 27 (g) Guidelines for health care professionals to use to prevent  
28 further transmission of the hepatitis C virus and to prevent the onset  
29 of chronic liver disease caused by hepatitis C by detecting and  
30 managing chronic hepatitis C infection;
- 31 (h) A comprehensive model, developed by the University of  
32 Washington medical center, for an evidence-based process for the  
33 prevention and management of hepatitis C and applicable to other  
34 diseases;
- 35 (i) Recommendations that would facilitate the prevention and  
36 management of hepatitis C in Washington; and
- 37 (j) An estimated cost for each item in this subsection if  
38 implemented.

1 (3) The department of health shall develop the state plan described  
2 in subsection (2) of this section only to the extent that, and for as  
3 long as, federal or private funds are available for that purpose,  
4 including grants. Funding for this act shall not come from state  
5 sources.

6 (4) The board of health may adopt rules necessary to implement  
7 subsections (5) and (6) of this section.

8 (5) The department of health shall submit the completed state plan  
9 to the legislature by July 1, 2004. After the initial state plan is  
10 submitted, the department shall update the state plan biennially and  
11 shall submit a report on the progress of any actions facilitating the  
12 prevention and management of hepatitis C in Washington to the governor,  
13 lieutenant governor, and speaker of the house of representatives by  
14 October 1st of each even-numbered year.

15 (6) The state plan described in subsection (2) of this section  
16 shall be implemented by the department of health only to the extent  
17 that, and for as long as, federal or private funds are available for  
18 that purpose, including grants. Funding for this act shall not come  
19 from state sources. If available funds from nonstate sources are  
20 inadequate to finance the entire plan, then the plan shall be  
21 implemented in stages. The legislature intends by enacting this act  
22 that educational efforts regarding hepatitis C be a priority.

23 (7) This section does not create a private right of action.

24 (8) This section expires June 30, 2007.

25 **Sec. 2.** RCW 49.60.172 and 1988 c 206 s 903 are each amended to  
26 read as follows:

27 (1) No person may require an individual to take an HIV test, as  
28 defined in chapter 70.24 RCW, or hepatitis C test, as a condition of  
29 hiring, promotion, or continued employment unless the absence of HIV or  
30 hepatitis C infection is a bona fide occupational qualification for the  
31 job in question.

32 (2) No person may discharge or fail or refuse to hire any  
33 individual, or segregate or classify any individual in any way which  
34 would deprive or tend to deprive that individual of employment  
35 opportunities or adversely affect his or her status as an employee, or  
36 otherwise discriminate against any individual with respect to  
37 compensation, terms, conditions, or privileges of employment on the

1 basis of the results of an HIV test or hepatitis C test unless the  
2 absence of HIV or hepatitis C infection is a bona fide occupational  
3 qualification of the job in question.

4 (3) The absence of HIV or hepatitis C infection as a bona fide  
5 occupational qualification exists when performance of a particular job  
6 can be shown to present a significant risk, as defined by the board of  
7 health by rule, of transmitting HIV or hepatitis C infection to other  
8 persons, and there exists no means of eliminating the risk by  
9 restructuring the job.

10 (4) For the purpose of this chapter, any person who is actually  
11 infected with HIV or hepatitis C, but is not disabled as a result of  
12 the infection, shall not be eligible for any benefits under the  
13 affirmative action provisions of chapter 49.74 RCW solely on the basis  
14 of such infection.

15 (5) Employers are immune from civil action for damages arising out  
16 of transmission of HIV or hepatitis C to employees or to members of the  
17 public unless such transmission occurs as a result of the employer's  
18 gross negligence.

19 **Sec. 3.** RCW 49.60.174 and 1997 c 271 s 6 are each amended to read  
20 as follows:

21 (1) For the purposes of determining whether an unfair practice  
22 under this chapter has occurred, claims of discrimination based on  
23 actual or perceived HIV or hepatitis C infection shall be evaluated in  
24 the same manner as other claims of discrimination based on sensory,  
25 mental, or physical disability; or the use of a trained dog guide or  
26 service animal by a disabled person.

27 (2) Subsection (1) of this section shall not apply to transactions  
28 with insurance entities, health service contractors, or health  
29 maintenance organizations subject to RCW 49.60.030(1)(e) or 49.60.178  
30 to prohibit fair discrimination on the basis of actual HIV or actual  
31 hepatitis C infection status when bona fide statistical differences in  
32 risk or exposure have been substantiated.

33 (3) For the purposes of this chapter((7)):

34 (a) "HIV" means the human immunodeficiency virus, and includes all  
35 HIV and HIV-related viruses which damage the cellular branch of the

1 human immune system and leave the infected person immunodeficient; and  
2 (b) "Hepatitis C" means the hepatitis C virus of any genotype.

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