



SPONSOR: Sen. Blevins & Rep. Ewing

DELAWARE STATE SENATE

141st GENERAL ASSEMBLY

SENATE BILL NO. 313

AN ACT TO AMEND TITLES 10 AND 11 OF THE DELAWARE CODE RELATING TO THE TESTING OF OFFENDERS FOR CERTAIN COMMUNICABLE DISEASES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

1 Section 1. Amend Section 3910 of Title 11 by striking the second paragraph thereof in its entirety, and by
2 substituting in lieu thereof the following:

3 "'Testing for the presence of any disease transmittable through blood or other bodily fluids' means a test or tests
4 of a person for the presence of human immunodeficiency virus, hepatitis or any other disease transmittable through blood
5 or other bodily fluids, or for antibodies or antigens that result from such diseases, or for any other substance which
6 indicates that a person is infected with such disease. The term also includes any preliminary screening test designed to
7 detect such diseases."

8 Section 2. Amend Section 3911 of Title 11 of the Delaware Code by striking said section in its entirety, and by
9 substituting in lieu thereof the following:

10 "§3911. Testing for diseases communicable by blood or other bodily fluids made available.

11 A defendant who has been arrested and charged with any offense or act of delinquency in which it is alleged that
12 the victim was exposed to the possibility of the transmission of blood or any other bodily fluid from such defendant under
13 circumstances which demonstrate the possibility of the transmission of human immunodeficiency virus, hepatitis or any
14 other disease transmittable through bodily fluids, shall, upon initial court appearance on the charge, be informed by the
15 court of the availability of testing for the presence of any disease transmittable through blood or other bodily fluids. The
16 court shall also notify the victim of the offense, or the parent or guardian of the victim, that the defendant has been so
17 notified."

18 Section 3. Amend Section 3912 of Title 11 of the Delaware Code by striking said section in its entirety, and by
19 substituting in lieu thereof the following:

20 "§3912. Order to undergo testing for diseases transmittable through blood or other bodily fluids.

21 Notwithstanding any other law, regulation or court rule to the contrary, when a defendant has been arrested and
22 charged with any offense or act of delinquency in which it is alleged that the victim was exposed to the possibility of the
23 transmission of blood or any other bodily fluid from such defendant under circumstances which demonstrate the
24 possibility of the transmission of human immunodeficiency virus, hepatitis or any other disease transmittable through
25 bodily fluids, the court at arraignment or any subsequent proceeding shall order the defendant to undergo testing for the
26 presence of human immunodeficiency virus, hepatitis or other diseases transmittable through blood or other bodily fluids.
27 Such testing shall occur notwithstanding the existence of any prior such tests on the defendant, and shall occur under the
28 direction of the Division of Public Health."

29 Section 4. Amend Section 3913 of Title 11 of the Delaware Code by striking the phrase "human
30 immunodeficiency virus" as it appears therein.

31 Section 5. Amend Section 3914 of Title 11 by striking the catchline thereof, and by substituting in lieu thereof
32 the following:

33 "§3914. Test results; notification to the Department of Correction and the Department of Services for Children,
34 Youth and Their Families; counseling, costs, notice of appeal not to automatically stay order for testing."

35 Section 6. Amend Section 3914(a) of Title 11 of the Delaware Code by striking the phrase "human
36 immunodeficiency virus" as it appears therein.

37 Section 7. Amend Section 3914(b) of Title 11 of the Delaware Code by striking said subsection said section in
38 its entirety, and by substituting in lieu thereof the following:

39 "(b) In addition, the Division of Public Health shall provide to the Department of Correction or the Department
40 of Services for Children Youth and Their Families the result of any test conducted pursuant to this subchapter which
41 indicates that the defendant is infected with the human immunodeficiency virus, hepatitis or any other disease. The
42 Department of Correction or the Department of Services for Children, Youth and Their Families shall use this information
43 solely for the purpose of providing medical treatment and counseling to the defendant while he or she is incarcerated in
44 any correctional institution."

45 Section 8. Amend Section 3914(c) of Title 11 of the Delaware Code by striking the phrase "human
46 immunodeficiency virus test" as it appears therein, and by substituting in lieu thereof "results of any testing conducted
47 pursuant to this subchapter", and by inserting after the phrase "human immunodeficiency virus infection," as it appears

therein the phrase "hepatitis or any other disease," and by striking the phrase "regarding human immunodeficiency virus disease" as it appears therein, and by substituting in lieu thereof the phrase "regarding the disease detected".

Section 9. Amend 3914(e) of Title 11 of the Delaware Code by striking the phrase "a human immunodeficiency virus test" as it appears therein, and by substituting in lieu thereof "any testing conducted pursuant to this subchapter".

Section 10. Amend Section 3915 of Title 11 of the Delaware Code by striking said section in its entirety, and by substituting in lieu thereof the following:

"A person who is charged with a criminal offense in which it is alleged that any law enforcement officer, paramedic or emergency medical services provider was exposed to the possibility of the transmission of blood or any other bodily fluid from such person is subject to a court order requiring testing for the presence of the human immunodeficiency virus, hepatitis or other diseases transmittable through blood or other bodily fluids."

Section 11. Amend Section 3916, 3917, and 3918 of Title 11 of the Delaware Code by striking the phrase "law enforcement officer" as it appears variously therein, and by substituting in lieu thereof the phrase "law enforcement officer, paramedic or emergency medical services provider".

Section 12. Amend Section 3916 of Title 11 of the Delaware Code by striking the phrase "or hepatitis" as it appears therein, and by substituting in lieu thereof the phrase "hepatitis or other diseases transmittable through blood or other bodily fluids".

Section 13. Amend Section 3918(a) of Title 11 of the Delaware Code by inserting between the phrases "virus infection," and "the Division" as they appear therein the phrase "hepatitis or any other disease," and by striking the phrase "regarding human immunodeficiency virus disease" as it appears therein, and by substituting in lieu thereof the phrase "regarding the disease detected".

Section 14. Amend Sections 1075, 1076 and 1077 of Title 10 of the Delaware Code by repealing said sections in their entirety.

SYNOPSIS

Delaware law currently permits the victims of certain sex offenses to ascertain whether their assailant is infected with the human immunodeficiency virus (H.I.V.). This Act extends this right to all crime victims when the circumstances of the crime make it possible that the victim was exposed to any disease transmittable by the defendant's blood or other bodily fluids. The Act also permits paramedics and other emergency medical service providers to avail themselves of the testing services currently available to law enforcement officers exposed to the possibility of the transmission of H.I.V., hepatitis or other diseases transmitted by bodily fluids. The Act repeals Sections 1075, 1076, and 1077 of the Delaware Code, as those sections are duplicative of Section 3910 through 3914 of Title 11.

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