

Enrolled Senate Bill 190

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CHAPTER

AN ACT

Relating to testing for disease at request of employee of Department of Corrections; amending ORS 433.085; and declaring an emergency.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 433.085 is amended to read:

433.085. (1) Notwithstanding any other provision of law, any **employee of the Department of Corrections**, law enforcement officer as defined in ORS 414.805, parole and probation officer, corrections officer, emergency medical technician, licensed health care provider, firefighter or paramedic who in the performance of the individual's official duties comes into contact with the bodily fluids of another person may seek to have the source person tested for HIV and hepatitis B or C by petitioning the circuit court for an order compelling the testing.

(2) The petition submitted to the court must set forth the facts and circumstances of the contact and the reasons the petitioner and a medically trained person representing the petitioner, if available, believe the exposure was substantial and the testing would be appropriate. The petition must also include information sufficient to identify the alleged source person and the location of the alleged source person, if known. The court shall hold an ex parte hearing in person or by telephone on the day of receipt of the petition, if possible, or within a reasonable period not to exceed three judicial days. Upon a showing that the petitioner has been exposed to the bodily fluids of another person and the circumstances create probable cause to conclude that a significant possibility exists that the petitioner has been exposed to HIV or hepatitis B or C, the court shall order the testing of the source person.

(3) If the court orders a test under subsection (2) of this section:

(a) The order shall direct the source person to allow the required test to be performed by a licensed health care provider without delay and may specify a time when the test must be completed. If the source person is in custody or otherwise subject to the legal control of another person, the order may be directed to the agency with custody of, or the other person with legal control over, the source person and direct the agency or other person to provide the source person with a copy of the order and ensure that the required test is performed.

(b) The petitioner shall designate a physician or nurse practitioner to receive the test results on behalf of the petitioner.

(c) The order must inform the source person, agency or other person of who is to receive the results of the test and of how to obtain payment for costs under subsection (6) of this section.

(d) The order shall be served on the source person, or the agency with custody of or other person with legal control over the source person, in the manner directed by the court. The court may provide for service of the order by any means appropriate to the circumstances of the source person, including but not limited to service by the petitioner or by directing the sheriff to serve the order. Any costs of service shall be paid as provided under subsection (6) of this section.

(e) The order is enforceable through the contempt powers of the court.

(4) The results of any test ordered under this section are confidential and subject to the confidentiality provisions of ORS 433.045 (3). The results shall be made available only to those persons authorized under ORS 433.045 (3) and to the petitioner, any physician or nurse practitioner designated by the petitioner to receive the results, the Department of Human Services and the source person.

(5) If the test results are negative, the court may order the source person to submit to additional testing six months after the first test was conducted.

(6) No charge or filing fee may be imposed for the filing of a petition under this section. The cost of any testing ordered under this section shall be the responsibility of the employer of the petitioner.

SECTION 2. This 2007 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2007 Act takes effect on its passage.

Passed by Senate March 20, 2007

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Secretary of Senate

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President of Senate

Passed by House May 8, 2007

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Speaker of House

Received by Governor:

.....M.,....., 2007

Approved:

.....M.,....., 2007

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Governor

Filed in Office of Secretary of State:

.....M.,....., 2007

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Secretary of State