

Senate Bill 190

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SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Authorizes disease testing of source person upon request of employee of Department of Corrections who comes into contact with bodily fluids of source person.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to testing for disease at request of employee of Department of Corrections; amending ORS
3 433.085; and declaring an emergency.

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

5 **SECTION 1.** ORS 433.085 is amended to read:

6 433.085. (1) Notwithstanding any other provision of law, any **employee of the Department of**
7 **Corrections**, law enforcement officer as defined in ORS 414.805, parole and probation officer, cor-
8 rections officer, emergency medical technician, licensed health care provider, firefighter or
9 paramedic who in the performance of the individual's official duties comes into contact with the
10 bodily fluids of another person may seek to have the source person tested for HIV and hepatitis B
11 or C by petitioning the circuit court for an order compelling the testing.

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

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

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

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

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted.
New sections are in **boldfaced** type.

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

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

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

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

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

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

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

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