

REVENUE: No revenue impact

FISCAL: No fiscal impact

Action:	Do Pass
Vote:	10 - 0 - 0
Yeas:	Bruun, Cannon, Dembrow, Garrett, Harker, Kennemer, Kotek, Maurer, Thompson, Greenlick
Nays:	0
Exc.:	0
Prepared By:	Roxie Cuellar, Administrator
Meeting Dates:	3/9

WHAT THE MEASURE DOES: Requires Department of Human Services (DHS) to adopt procedures for authorizing HIV testing of individuals in specific state hospitals who are incapable of granting informed consent. Removes liability for persons who comply with statutory requirements. Declares an Emergency; takes effect upon passage.

ISSUES DISCUSSED:

- Frequency of individuals unable to give informed consent
- Definition of “incapable of giving informed consent”
- Physical resistance to HIV test as gauge of lack of consent to testing
- Determining treatment needs of persons with mental disabilities without third-party review

EFFECT OF AMENDMENT: No amendment.

BACKGROUND: Currently, persons living in Oregon state hospitals (Oregon State Hospital, Blue Mountain Recovery Center, and Eastern Oregon Training Center) must give informed consent for HIV testing (ORS 433.045). However, some individuals residing in the state institutions are incapable of giving informed consent when HIV testing may be advisable or necessary. Oregon statutes now recognize three exceptions to the requirement of informed consent prior to HIV testing: Pregnant women by attending physicians, testing for research purposes if results cannot be linked to the blood donor, and, under specific circumstances, on behalf of persons subjected to occupation exposures.