



## VOTE YES SB 1025

- In protecting and serving the community, police officers come into contact with a range of bodily fluids that can transmit communicable diseases. This contact can result from rushing to the aid of an injured bystander, attending to the scene of an accident or crime, or diffusing a violent situation.
- Current law recognizes the significant health risks that exposure to these bodily fluids can pose to officers and provides officers with a judicial process to test the source person to determine whether bodily fluids could have transmitted HIV or hepatitis B or C.
- But bodily fluids can transmit serious infectious diseases other than HIV and hepatitis B and C. In these cases, officers are left to choose between simply hoping for the best or obtaining expensive preventive health care services and enduring sometimes-debilitating side effects to prevent infection. Either option endangers officer health and public safety.
- SB 1025 would solve this problem by expanding the existing judicial process for testing of bodily fluids to cover exposures that risk transmission of a range of communicable diseases, not just HIV or hepatitis B or C. In addition, it would streamline the process by ensuring testing happens with a quick turn-around and clarifying the showing that officers must make for the court to order testing.
- These changes will allow officers to gain essential information about risks to their health and avoid unnecessary treatments and infections, while protecting personal privacy rights. Disclosure of test results under the proposed process would be confidential and HIPPA-compliant, since HIPPA allows disclosure of protected information pursuant to judicial process.
- It is absolutely our intention to ensure that a person is entitled to full due process before any testing of that person is ordered.
  - We intend to amend the bill so that it includes the necessary procedural safeguards to provide due process.

**ABOUT:** The Oregon Council of Police Associations (OCPA) represents 60 Oregon-based public safety labor organizations, including line enforcement officers, corrections officers, parole and probation officers, dispatchers, and other public safety support personnel.

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# **SUMMARY OF SB 1025:**

## **Current Law**

- Authorizes law enforcement officers and other public safety employees who, in the performance of official duties, come into contact with bodily fluids of another person to petition to have the source person tested for HIV or hepatitis B or C.
- Requires court to order testing of source person upon showing of probable cause:
  - That the petitioner has been exposed to bodily fluids of another person; and
  - That a significant possibility exists that the petitioner has been exposed to HIV or hepatitis B or C.

## **Section 1**

- Makes technical non-substantive clarifications to existing statutory language.
- Changes from mandatory to discretionary the authority to make test results available to authorized persons.
  - This has the effect of limiting disclosure of the results only to persons legally authorized, including the petitioner, designated health professionals, Oregon Health Authority, and the source person.

## **Section 2**

- Expands testing authorization to include testing for communicable diseases, not limited to HIV or hepatitis B or C.
- Changes standard of proof to require court to order testing of source person upon showing of probable cause:
  - That petitioner has been exposed to bodily fluids of another person that may transmit a communicable disease.
- Requires court to hold ex parte hearing and to order testing, if necessary, within three judicial days of receipt of petition.

## **Petition and Testing Process**

- The petition must set forth:
  - Details of encounter;
  - Reasons petitioner and medical representative believe exposure was substantial and that testing would be appropriate; and
  - Information sufficient to identify alleged source person and location, if known.

- If testing is ordered, the order:
  - Must direct source person to allow required test by licensed health care provider without delay;
  - May specify a deadline for completion;
  - May be directed to agency with custody of, or other person with legal control over, source person;
  - Must be served on source person, or agency with custody or other person with legal control over source person.
    - Methods of service may include service by petitioner or by sheriff.
  - Is enforceable through contempt powers of the court.
- Petitioner must designate a physician or nurse practitioner to receive the test results on petitioner's behalf.
- Test results are confidential and exempt from Public Records Law.
- Test results may be disclosed only to petitioner, designated physician or nurse practitioner, Oregon Health Authority, and source person.
- If test results are negative, court may order re-testing of source person six months after the first test was conducted.
- Petitioner's employer bears the costs of testing.
- No charges or filing fees for filing of petitions.