

**A-Engrossed**  
**Senate Bill 1025**

Ordered by the Senate April 28  
Including Senate Amendments dated April 28

Sponsored by Senators MANNING JR, KNOPP, Representative BARKER, Senator PROZANSKI; Senator STEINER HAYWARD, Representative NOBLE (at the request of Oregon Council of Police Associations, Oregon Association Chiefs of Police and Oregon State Sheriffs' Association)

**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.

*[Modifies burden of proof for petitioner petitioning court for order compelling testing of individual when certain law enforcement and health care professionals come into contact with individual's bodily fluids.]*

*[Creates same petition process for other communicable diseases.]*

**Creates process by which certain persons who practice profession related to enforcing or providing for public health and safety and who, in performance of official duties, come into contact with blood, bodily fluid or other potentially infectious material of another person may petition court for order compelling testing of other person for communicable disease.**

**Requires court to order testing upon showing that circumstances create probable cause to conclude that petitioner's contact with source person constitutes direct contact with blood, bodily fluids or other potentially infectious materials of person, and that contact is capable of transmitting communicable disease.**

Takes effect on 91st day following adjournment sine die.

**A BILL FOR AN ACT**

1  
2 Relating to verifying transmission of disease; creating new provisions; repealing ORS 433.085; and  
3 prescribing an effective date.

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

5 **SECTION 1. (1) As used in this section:**

6 (a) **"Communicable disease" has the meaning given that term in ORS 431A.005.**

7 (b) **"Good faith effort to obtain the voluntary consent of the source person" includes a  
8 good faith effort to locate or contact the source person.**

9 (c) **"Significant exposure" means direct contact with blood, bodily fluids or other poten-  
10 tially infectious materials of a person, and the contact is capable of transmitting a  
11 communicable disease.**

12 (2) **Notwithstanding any other provision of law, an employee of the Department of Cor-  
13 rections, a law enforcement officer as defined in ORS 414.805, a parole and probation officer  
14 as defined in ORS 181A.355, a corrections officer as defined in ORS 181A.355, an emergency  
15 medical services provider as defined in ORS 682.025, a licensed health care provider as defined  
16 in ORS 433.060 or a firefighter who, in the performance of the person's official duties, comes  
17 into contact with the blood, bodily fluid or other potentially infectious material of another  
18 person may petition the circuit court for an order compelling the testing of the source per-  
19 son for a communicable disease, provided that the person making the petition has first made  
20 a good faith effort to obtain the voluntary consent of the source person to be tested for a**

**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 communicable disease.

2 (3) A petition submitted under this section must:

3 (a) Set forth the facts and circumstances of the contact with the source person and the  
4 reasons the petitioner and a medically trained person representing the petitioner, if avail-  
5 able, believe the contact with the source person constitutes significant exposure and that  
6 testing is appropriate;

7 (b) If a medically trained person is not available to represent the petitioner, include the  
8 reason for the unavailability;

9 (c) Include information sufficient to identify the source person and the location of the  
10 source person, if known; and

11 (d) Include a statement by the petitioner attesting to having made a good faith effort to  
12 obtain the voluntary consent of the source person to be tested for a communicable disease.

13 (4) The circuit court shall hold an ex parte hearing in person, by telephone or by other  
14 appropriate means no later than three judicial days after receiving a petition under this  
15 section. Upon a finding that the requirements of subsection (3) of this section have been  
16 met and a showing that the circumstances create probable cause to conclude that the  
17 petitioner's contact with the source person constitutes significant exposure, the court shall  
18 order the testing of the source person. The court shall issue the order no later than four  
19 judicial days after receiving a petition under this section.

20 (5) If the circuit court orders a test under subsection (4) of this section:

21 (a) The order shall direct the source person to allow a test to be performed by a licensed  
22 health care provider, without delay, for a communicable disease that may be transmitted by  
23 the type of contact that occurred and may specify the date by which the test must be com-  
24 pleted. If the source person is in custody or otherwise subject to the legal control of another  
25 person, the order may be directed to the agency with custody of, or the other person with  
26 legal control over, the source person. The order may direct the agency or other person to  
27 provide the source person with a copy of the order. The order may contain any directions  
28 necessary to ensure that the test is performed.

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

31 (c) The order must inform the source person, or the agency with custody of or other  
32 person with legal control over the source person, of:

33 (A) The physician or nurse practitioner who is to receive the results of the test on behalf  
34 of the petitioner; and

35 (B) How to obtain payment for costs under subsection (9) of this section.

36 (d) The order must be served on the source person, or the agency with custody of or  
37 other person with legal control over the source person, in the manner directed by the court.  
38 The court may provide for service of the order by any means appropriate to the circum-  
39 stances of the source person, including directing the petitioner or the sheriff to serve the  
40 order. The costs associated with serving the order must be paid as provided under subsection  
41 (9) of this section.

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

43 (6) The results of a test ordered under this section:

44 (a) Are confidential and not subject to public disclosure under ORS 192.410 to 192.505; and

45 (b) May be made available only to the petitioner, the physician or nurse practitioner

1 designated by the petitioner to receive the results of the test, the Oregon Health Authority  
2 and the source person.

3 (7) Blood, bodily fluids or other potentially infectious materials taken from a source  
4 person for the purpose of performing a test under this section:

5 (a) May not be used for a civil or criminal investigation or as evidence in civil or criminal  
6 proceeding; and

7 (b) May be retained only as long as necessary to confirm the results of a test performed  
8 under this section.

9 (8) If the results of a test ordered under this section are negative, the circuit court may  
10 order the source person to allow the test to be performed as provided in subsection (5) of this  
11 section six months after the first test was performed.

12 (9) A charge or filing fee may not be imposed for the filing of a petition under this sec-  
13 tion. The cost of any testing ordered under this section shall be the responsibility of the  
14 employer of the petitioner.

15 SECTION 2. ORS 433.085 is repealed.

16 SECTION 3. The repeal of ORS 433.085 by section 2 of this 2017 Act applies to petitions  
17 filed on or after the effective date of this 2017 Act.

18 SECTION 4. This 2017 Act takes effect on the 91st day after the date on which the 2017  
19 regular session of the Seventy-ninth Legislative Assembly adjourns sine die.

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