

SENATE AMENDMENTS TO SENATE BILL 1025

By COMMITTEE ON JUDICIARY

April 28

1 On page 1 of the printed bill, line 2, delete “amending” and insert “repealing”.

2 Delete lines 5 through 28 and delete pages 2 and 3 and insert:

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

4 **“(a) ‘Communicable disease’ has the meaning given that term in ORS 431A.005.**

5 **“(b) ‘Good faith effort to obtain the voluntary consent of the source person’ includes a**
6 **good faith effort to locate or contact the source person.**

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

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

20 **“(3) A petition submitted under this section must:**

21 **“(a) Set forth the facts and circumstances of the contact with the source person and the**
22 **reasons the petitioner and a medically trained person representing the petitioner, if avail-**
23 **able, believe the contact with the source person constitutes significant exposure and that**
24 **testing is appropriate;**

25 **“(b) If a medically trained person is not available to represent the petitioner, include the**
26 **reason for the unavailability;**

27 **“(c) Include information sufficient to identify the source person and the location of the**
28 **source person, if known; and**

29 **“(d) Include a statement by the petitioner attesting to having made a good faith effort**
30 **to obtain the voluntary consent of the source person to be tested for a communicable dis-**
31 **ease.**

32 **“(4) The circuit court shall hold an ex parte hearing in person, by telephone or by other**
33 **appropriate means no later than three judicial days after receiving a petition under this**
34 **section. Upon a finding that the requirements of subsection (3) of this section have been**
35 **met and a showing that the circumstances create probable cause to conclude that the**

1 petitioner's contact with the source person constitutes significant exposure, the court shall
2 order the testing of the source person. The court shall issue the order no later than four
3 judicial days after receiving a petition under this section.

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

5 “(a) The order shall direct the source person to allow a test to be performed by a licensed
6 health care provider, without delay, for a communicable disease that may be transmitted by
7 the type of contact that occurred and may specify the date by which the test must be com-
8 pleted. If the source person is in custody or otherwise subject to the legal control of another
9 person, the order may be directed to the agency with custody of, or the other person with
10 legal control over, the source person. The order may direct the agency or other person to
11 provide the source person with a copy of the order. The order may contain any directions
12 necessary to ensure that the test is performed.

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

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

17 “(A) The physician or nurse practitioner who is to receive the results of the test on be-
18 half of the petitioner; and

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

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

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

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

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

30 “(b) May be made available only to the petitioner, the physician or nurse practitioner
31 designated by the petitioner to receive the results of the test, the Oregon Health Authority
32 and the source person.

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

35 “(a) May not be used for a civil or criminal investigation or as evidence in civil or crim-
36 inal proceeding; and

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

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

42 “(9) A charge or filing fee may not be imposed for the filing of a petition under this
43 section. The cost of any testing ordered under this section shall be the responsibility of the
44 employer of the petitioner.

45 “SECTION 2. ORS 433.085 is repealed.

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

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

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