

Requested by SENATE COMMITTEE ON JUDICIARY

**PROPOSED AMENDMENTS TO
SENATE BILL 1025**

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

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

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

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

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

10 **“(c) ‘Significant exposure’ means direct contact with blood, bodily**
11 **fluids or other potentially infectious materials of a person, and the**
12 **contact is capable of transmitting a communicable disease.**

13 **“(2) Notwithstanding any other provision of law, an employee of the**
14 **Department of Corrections, a law enforcement officer as defined in**
15 **ORS 414.805, a parole and probation officer as defined in ORS 181A.355,**
16 **a corrections officer as defined in ORS 181A.355, an emergency medical**
17 **services provider as defined in ORS 682.025, a licensed health care**
18 **provider as defined in ORS 433.060 or a firefighter who, in the per-**
19 **formance of the person’s official duties, comes into contact with the**
20 **blood, bodily fluid or other infectious material of another person may**
21 **petition the circuit court for an order compelling the testing of the**

1 source person for a communicable disease, provided that the person
2 making the petition has first made a good faith effort to obtain the
3 voluntary consent of the source person to be tested for a
4 communicable disease.

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

6 **“(a) Set forth the facts and circumstances of the contact with the**
7 **source person and the reasons the petitioner and a medically trained**
8 **person representing the petitioner, if available, believe the contact**
9 **with the source person constitutes significant exposure and that test-**
10 **ing is appropriate;**

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

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

15 **“(d) Include a statement by the petitioner attesting to having made**
16 **a good faith effort to obtain the voluntary consent of the source per-**
17 **son to be tested for a communicable disease.**

18 **“(4) The circuit court shall hold an ex parte hearing in person, by**
19 **telephone or by other appropriate means no later than three judicial**
20 **days after receiving a petition under this section. Upon a finding that**
21 **the requirements of subsection (3) of this section have been met and**
22 **a showing that the circumstances create probable cause to conclude**
23 **that the petitioner’s contact with the source person constitutes sig-**
24 **nificant exposure, the court shall order the testing of the source per-**
25 **son. The court shall issue the order no later than four judicial days**
26 **after receiving a petition under this section.**

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

29 **“(a) The order shall direct the source person to allow a test to be**
30 **performed by a licensed health care provider, without delay, for a**

1 communicable disease that may be transmitted by the type of contact
2 that occurred and may specify the date by which the test must be
3 completed. If the source person is in custody or otherwise subject to
4 the legal control of another person, the order may be directed to the
5 agency with custody of, or the other person with legal control over,
6 the source person. The order may direct the agency or other person
7 to provide the source person with a copy of the order. The order may
8 contain any directions necessary to ensure that the test is performed.

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

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

14 “(A) The physician or nurse practitioner who is to receive the re-
15 sults of the test on behalf of the petitioner; and

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

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

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

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

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

30 “(b) May be made available only to the petitioner, the physician or

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

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

6 “(a) May not be used for a civil or criminal investigation or as evi-
7 dence in civil or criminal proceeding; and

8 “(b) May be retained only as long as necessary to confirm the re-
9 sults of a test performed under this section.

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

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

17 “SECTION 2. ORS 433.085 is repealed.

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

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

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