

Enrolled
Senate Bill 1025

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

CHAPTER

AN ACT

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

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

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

- (a) "Communicable disease" has the meaning given that term in ORS 431A.005.
- (b) "Good faith effort to obtain the voluntary consent of the source person" includes a good faith effort to locate or contact the source person.
- (c) "Significant exposure" means direct contact with blood, bodily fluids or other potentially infectious materials of a person, and the contact is capable of transmitting a communicable disease.

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

(3) A petition submitted under this section must:

- (a) Set forth the facts and circumstances of the contact with the source person and the reasons the petitioner and a medically trained person representing the petitioner, if available, believe the contact with the source person constitutes significant exposure and that testing is appropriate;
- (b) If a medically trained person is not available to represent the petitioner, include the reason for the unavailability;
- (c) Include information sufficient to identify the source person and the location of the source person, if known; and
- (d) Include a statement by the petitioner attesting to having made a good faith effort to obtain the voluntary consent of the source person to be tested for a communicable disease.

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

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

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

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

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

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

(B) How to obtain payment for costs under subsection (8) of this section.

(d) The order must be served on the source person, or the agency with custody of or other person with legal control over the source person, in the manner directed by the court. The court may provide for service of the order by any means appropriate to the circumstances of the source person, including directing the petitioner or the sheriff to serve the order. The costs associated with serving the order must be paid as provided under subsection (8) of this section.

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

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

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

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

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

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

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

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

SECTION 2. ORS 433.085 is repealed.

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

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

Passed by Senate May 2, 2017

Repassed by Senate July 7, 2017

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Lori L. Brocker, Secretary of Senate

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Peter Courtney, President of Senate

Passed by House July 6, 2017

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Tina Kotek, Speaker of House

Received by Governor:

.....M,....., 2017

Approved:

.....M,....., 2017

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Kate Brown, Governor

Filed in Office of Secretary of State:

.....M,....., 2017

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Dennis Richardson, Secretary of State