

By: Senator Green

Introduced and read first time: February 2, 1996
Assigned to: Economic and Environmental Affairs

A BILL ENTITLED

1 AN ACT concerning

2 Public Safety Employees - Contagious Diseases - Testing and Disclosure

3 FOR the purpose of requiring certain public safety employees to notify their employers of
4 possible exposure to certain contagious diseases; authorizing certain individuals to
5 notify the employers of public safety employees of possible exposure to certain
6 contagious diseases; requiring the employers to make a certain determination;
7 requiring the employers to request a certain individual or public safety employee to
8 submit to testing and authorize disclosure of the results under certain
9 circumstances; authorizing an employer to petition a court for relief if an individual
10 refuses to submit to testing or authorize disclosure of the results; authorizing an
11 individual to petition a court for relief if a public safety employee refuses to submit
12 to testing or authorize disclosure of the results; requiring the court to provide
13 certain notice to certain persons and conduct a hearing in a certain manner;
14 authorizing the court to order an individual or public safety employee to submit to
15 testing and disclosure of the results under certain circumstances; requiring an
16 employer or a court to notify a local health officer if testing and disclosure are
17 authorized or ordered; requiring the local health officer to perform certain tasks;
18 authorizing certain individuals to act on behalf of certain deceased or incapacitated
19 individuals or public safety employees with regard to certain matters; defining
20 certain terms; and generally relating to public safety employees, testing for certain
21 contagious diseases, and disclosure of the results.

22 BY adding to
23 Article - Health - General
24 Section 18-213.3
25 Annotated Code of Maryland
26 (1994 Replacement Volume and 1995 Supplement)

27 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
28 MARYLAND, That the Laws of Maryland read as follows:

29 **Article - Health - General**

30 18-213.3.

31 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
32 INDICATED.

(2) "BLOOD" MEANS HUMAN BLOOD, HUMAN BLOOD COMPONENTS, AND PRODUCTS MADE FROM HUMAN BLOOD .

(3) "EXPOSURE INCIDENT" MEANS A SPECIFIC EYE, MOUTH, OTHER MUCOUS MEMBRANE, NONINTACT SKIN, OR PARENTERAL CONTACT WITH BLOOD OR OTHER POTENTIALLY INFECTIOUS MATERIALS THAT RESULTS FROM THE PERFORMANCE OF A PUBLIC SAFETY EMPLOYEE'S DUTIES.

7 (4) "HEALTH OFFICER" MEANS:

(I) A HEALTH OFFICER APPOINTED UNDER TITLE 3, SUBTITLE 3 OF
THIS ARTICLE; OR

(II) IN BALTIMORE CITY, THE BALTIMORE CITY COMMISSIONER OF
HEALTH.

12 (5) "OTHER POTENTIALLY INFECTIOUS MATERIALS" MEANS:

13 (I) SEMEN, VAGINAL SECRETIONS, CEREBROSPINAL FLUID,
14 SYNOVIAL FLUID, PLEURAL FLUID, PERICARDIAL FLUID, PERITONEAL FLUID, AND
15 AMNIOTIC FLUID;

16 (II) ANY BODY FLUID THAT IS VISIBLY CONTAMINATED WITH
17 BLOOD;

18 (III) ANY BODY FLUID IN A SITUATION WHERE IT IS DIFFICULT OR
19 IMPOSSIBLE TO DIFFERENTIATE BETWEEN BODY FLUIDS;

(IV) ANY UNFIXED TISSUE OR ORGAN FROM A LIVING OR DEAD
HUMAN BODY EXCEPT INTACT SKIN;

(VI) CELL, TISSUE OR ORGAN CULTURES THAT CONTAIN HIV OR
HEPATITIS B; OR

(VII) CULTURE MEDIUM OR OTHER SOLUTIONS THAT CONTAIN HIV
OR HEPATITIS B.

26 (6) "PUBLIC SAFETY EMPLOYEE" MEANS:

(I) A LAW ENFORCEMENT OFFICER AS DEFINED IN § 18-213.2(A) OF
THIS SUBTITLE;

29 (II) A PAID OR VOLUNTEER FIREFIGHTER;

30 (III) AN EMERGENCY MEDICAL TECHNICIAN;

31 (IV) A RESCUE SQUAD MEMBER; OR

32 (V) A SWORN MEMBER OF THE STATE FIRE MARSHAL'S OFFICE.

33 (B) (1) IF, IN THE COURSE OF EMPLOYMENT, A PUBLIC SAFETY EMPLOYEE
34 IS INVOLVED IN AN ALLEGED EXPOSURE INCIDENT, THE PUBLIC SAFETY EMPLOYEE
35 SHALL NOTIFY THE EMPLOYEE'S EMPLOYER IMMEDIATELY OR AS SOON AS
36 PRACTICABLE.

5 (C) (1) AFTER RECEIVING A NOTICE UNDER SUBSECTION (B) OF THIS
6 SECTION, AN EMPLOYER SHALL:

7 (I) REVIEW THE FACTS OF THE ALLEGED EXPOSURE INCIDENT;

8 (II) OBTAIN A MEDICAL CONSULTATION; AND

(III) DETERMINE WHETHER IT IS REASONABLE TO BELIEVE THAT
AN EXPOSURE INCIDENT OCCURRED.

11 (2) IF, AFTER REVIEW OF THE FACTS AND MEDICAL CONSULTATION, AN
12 EMPLOYER DETERMINES THAT IT IS REASONABLE TO BELIEVE THAT AN EXPOSURE
13 INCIDENT OCCURRED, THE EMPLOYER SHALL REQUEST THE INDIVIDUAL OR THE
14 PUBLIC SAFETY EMPLOYEE OR BOTH TO:

15 (I) SUBMIT TO TESTING FOR HEPATITIS B AND HUMAN
16 IMMUNODEFICIENCY VIRUS; AND

17 (II) AUTHORIZE DISCLOSURE OF THE RESULTS.

18 (D) (1) IF AN INDIVIDUAL REFUSES TO SUBMIT TO TESTING OR TO
19 AUTHORIZE DISCLOSURE OF THE RESULTS, THE EMPLOYER MAY PETITION A
20 COURT OF COMPETENT JURISDICTION TO ORDER TESTING AND DISCLOSURE OF
21 THE RESULTS.

22 (2) IF A PUBLIC SAFETY EMPLOYEE REFUSES TO SUBMIT TO TESTING
23 OR TO AUTHORIZE DISCLOSURE OF THE RESULTS, THE INDIVIDUAL MAY PETITION
24 A COURT OF COMPETENT JURISDICTION TO ORDER TESTING AND DISCLOSURE OF
25 THE RESULTS.

26 (E) (1) (I) IF A COURT IS PETITIONED UNDER SUBSECTION (D) OF THIS
27 SECTION, THE COURT SHALL CONDUCT A HEARING AT WHICH THE INDIVIDUAL,
28 THE PUBLIC SAFETY EMPLOYEE, AND A REPRESENTATIVE OF THE EMPLOYER HAVE
29 A RIGHT TO BE PRESENT.

(II) THE INDIVIDUAL, THE PUBLIC SAFETY EMPLOYEE, AND A
REPRESENTATIVE OF THE EMPLOYER SHALL BE NOTIFIED OF:

32 1. THE DATE, TIME, AND LOCATION OF THE HEARING; AND

33 2. THEIR RIGHT TO BE PRESENT AT THE HEARING.

34 (III) DURING THE HEARING ONLY AFFIDAVITS,
35 COUNTER-AFFIDAVITS, AND MEDICAL RECORDS THAT RELATE TO THE MATERIAL
36 FACTS OF THE CASE MAY BE ADMISSIBLE.

37 (IV) A HEARING UNDER THIS SECTION SHALL BE CLOSED TO THE
38 PUBLIC AND THE RECORD SHALL BE SEALED.

1 (2) IF THE COURT FINDS BY A PREPONDERANCE OF THE EVIDENCE
2 THAT AN EXPOSURE INCIDENT OCCURRED, THE COURT SHALL ORDER:

3 (I) THE INDIVIDUAL OR PUBLIC SAFETY EMPLOYEE OR BOTH TO
4 SUBMIT TO TESTING; AND

5 (II) DISCLOSURE OF THE RESULTS.

(F) A PARTY MAY APPEAL AN ORDER OF THE COURT UNDER SUBSECTION (E) OF THIS SECTION WITHIN 10 DAYS OF THE DATE OF THE ORDER.

8 (G) (1) (I) IF TESTING AND DISCLOSURE OF THE RESULTS ARE
9 AUTHORIZED BY AN INDIVIDUAL OR PUBLIC SAFETY EMPLOYEE UNDER
10 SUBSECTION (C) OF THIS SECTION, THE EMPLOYER SHALL NOTIFY THE LOCAL
11 HEALTH OFFICER.

12 (II) IF TESTING AND DISCLOSURE OF THE RESULTS ARE ORDERED
13 BY A COURT UNDER SUBSECTION (E)(2) OF THIS SECTION, THE COURT SHALL
14 NOTIFY THE LOCAL HEALTH OFFICER.

15 (2) AFTER RECEIVING A NOTICE UNDER PARAGRAPH (1) OF THIS
16 SUBSECTION, THE LOCAL HEALTH OFFICER OR THE LOCAL HEALTH OFFICER'S
17 DESIGNEE SHALL:

18 (I) PROMPTLY COLLECT A BLOOD SAMPLE FROM THE INDIVIDUAL
19 OR PUBLIC SAFETY EMPLOYEE:

20 (II) CONDUCT TESTS FOR HUMAN IMMUNODEFICIENCY VIRUS AND
21 HEPATITIS B ON THE BLOOD SAMPLE:

22 (III) NOTIFY THE INDIVIDUAL OR PUBLIC SAFETY EMPLOYEE OR
23 BOTH OF THE RESULTS WITHIN 48 HOURS OF CONFIRMATION OF THE RESULTS; AND

(IV) PROVIDE APPROPRIATE PRETEST AND POSTTEST COUNSELING.

25 (H) IF AN INDIVIDUAL OR PUBLIC SAFETY EMPLOYEE WHO HAS BEEN
26 INVOLVED IN AN ALLEGED EXPOSURE INCIDENT IS DEAD OR OTHERWISE
27 INCAPACITATED, THE INDIVIDUAL'S OR PUBLIC SAFETY EMPLOYEE'S NEXT OF KIN
28 MAY ACT ON BEHALF OF THE INDIVIDUAL OR PUBLIC SAFETY EMPLOYEE TO:

29 (1) SUBMIT OR REFUSE TO SUBMIT TO TESTING UNDER THIS SECTION;
30 AND

31 (2) AUTHORIZE OR REFUSE TO AUTHORIZE DISCLOSURE OF THE
32 RESULTS UNDER THIS SECTION.

33 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
34 October 1, 1996.