
By: Senators Derr and Ferguson (Frederick County Senators)

Introduced and read first time: January 31, 1997

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Frederick County - Frederick County Adult Detention Center - Testing of Inmates**

3 FOR the purpose of providing for the medical testing of inmates at the Frederick County
4 Adult Detention Center under certain circumstances; defining certain terms;
5 providing for notification to the correctional employee of the medical test results;
6 providing for counseling under certain circumstances; exempting certain health care
7 providers from liability in any cause of action under certain circumstances; and
8 generally relating to the medical testing of inmates at the Frederick County Adult
9 Detention Center.

10 BY adding to

11 The Public Local Laws of Frederick County
12 Section 2-2-101
13 Article 11 - Public Local Laws of Maryland
14 (1979 Edition and June 1996 Supplement, as amended)

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

17 **Article 11 - Frederick County**

18 2-2-101.

19 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
20 INDICATED.

21 (2) "CONTAGIOUS DISEASE OR VIRUS" MEANS:

22 (I) HUMAN IMMUNODEFICIENCY VIRUS (HIV); OR

23 (II) HEPATITIS.

24 (3) "CORRECTIONAL EMPLOYEE" MEANS:

25 (I) A PERSON WHO IS EMPLOYED BY A CORRECTIONAL
26 INSTITUTION; OR

27 (II) A PERSON WHO PERFORMS DUTIES IN A CORRECTIONAL
28 INSTITUTION BY VIRTUE OF FEDERAL, STATE, OR LOCAL GOVERNMENT
29 EMPLOYMENT.

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1 (4) "CORRECTIONAL INSTITUTION" MEANS THE FREDERICK COUNTY
2 ADULT DETENTION CENTER.

3 (5) "EXPOSURE" MEANS AS BETWEEN A CORRECTIONAL EMPLOYEE
4 AND AN INMATE:

5 (I) PERCUTANEOUS CONTACT WITH BLOOD, SEMEN, BLOOD
6 CONTAMINATED FLUIDS, SALIVA, SPUTUM, STOOL, FECES, NASAL SECRETIONS,
7 URINE, VOMITUS, OR VAGINAL SECRETIONS;

8 (II) MUCOCUTANEOUS CONTACT WITH BLOOD, SEMEN, BLOOD
9 CONTAMINATED FLUIDS, SALIVA, SPUTUM, STOOL, FECES, NASAL SECRETIONS,
10 URINE, VOMITUS, OR VAGINAL SECRETIONS;

11 (III) OPEN WOUND, INCLUDING DERMATITIS, EXUDATIVE LESIONS,
12 OR CHAPPED SKIN, CONTACT WITH BLOOD, SEMEN, BLOOD CONTAMINATED FLUIDS,
13 SALIVA, SPUTUM, STOOL, FECES, NASAL SECRETIONS, URINE, VOMITUS, OR VAGINAL
14 SECRETIONS; OR

15 (IV) INTACT SKIN CONTACT WITH LARGE AMOUNTS OF BLOOD,
16 SEMEN, BLOOD CONTAMINATED FLUIDS, SALIVA, SPUTUM, STOOL, FECES, NASAL
17 SECRETIONS, URINE, VOMITUS, OR VAGINAL SECRETIONS.

18 (6) "HEALTH CARE PROVIDER" MEANS ANY PERSON, INCLUDING A
19 PHYSICIAN OR HOSPITAL, WHO IS LICENSED OR OTHERWISE AUTHORIZED IN THIS
20 STATE TO PROVIDE HEALTH CARE SERVICES AND IS UNDER CONTRACT WITH OR
21 OPERATED BY THE CORRECTIONAL INSTITUTION.

22 (B) AN INMATE SHALL FURNISH TO THE CORRECTIONAL INSTITUTION A
23 BLOOD SAMPLE TO BE TESTED FOR THE PRESENCE OF CONTAGIOUS DISEASE OR
24 VIRUS WHEN:

25 (1) THERE HAS BEEN AN EXPOSURE INVOLVING THE INMATE;

26 (2) THE EXPOSURE OCCURRED IN CONNECTION WITH THE INMATE'S
27 VIOLATION OF INSTITUTIONAL REGULATIONS;

28 (3) THE INMATE HAS BEEN FOUND GUILTY OF THE VIOLATION OF
29 INSTITUTIONAL REGULATIONS DESCRIBED IN PARAGRAPH (2) OF THIS SUBSECTION;

30 (4) THE CORRECTIONAL EMPLOYEE INVOLVED IN THE EXPOSURE HAS
31 GIVEN WRITTEN NOTICE OF THE EXPOSURE TO THE MANAGING OFFICIAL OF THE
32 CORRECTIONAL INSTITUTION, OR THE OFFICIAL'S DESIGNEE; AND

33 (5) THE EXPOSURE IS CONFIRMED BY A HEALTH CARE PROVIDER.

34 (C) THE CORRECTIONAL INSTITUTION SHALL COLLECT THE BLOOD SAMPLE
35 FROM THE INMATE AND SHALL HAVE THE SAMPLE TESTED FOR CONTAGIOUS
36 DISEASE OR VIRUS.

37 (D) THE CORRECTIONAL EMPLOYEE SHALL BE NOTIFIED OF THE RESULTS OF
38 THE TEST FOR THE PRESENCE OF CONTAGIOUS DISEASE OR VIRUS CONDUCTED
39 UNDER THE PROVISIONS OF THIS SECTION.

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1 (E) THE NOTIFICATION REQUIRED UNDER SUBSECTION (D) OF THIS SECTION
2 SHALL:

3 (1) BE MADE WITHIN THE 48 HOURS OF CONFIRMATION OF THE
4 INMATE'S DIAGNOSIS;

5 (2) INCLUDE SUBSEQUENT WRITTEN CONFIRMATION OF THE POSSIBLE
6 EXPOSURE TO CONTAGIOUS DISEASE OR VIRUS; AND

7 (3) TO THE EXTENT POSSIBLE, BE MADE IN A MANNER THAT WILL
8 PROTECT THE CONFIDENTIALITY OF THE CORRECTIONAL EMPLOYEE AND THE
9 INMATE.

10 (F) IF THE RESULTS OF THE BLOOD SAMPLE TEST ARE POSITIVE FOR THE
11 PRESENCE OF CONTAGIOUS DISEASE OR VIRUS, THE CORRECTIONAL EMPLOYEE
12 AND THE INMATE SHALL BE PROVIDED APPROPRIATE COUNSELING.

13 (G) THE CORRECTIONAL INSTITUTION SHALL DEVELOP WRITTEN
14 PROCEDURES TO CARRY OUT THE PROVISIONS OF THIS SECTION.

15 (H) A HEALTH CARE PROVIDER ACTING IN GOOD FAITH TO PROVIDE
16 NOTIFICATION IN ACCORDANCE WITH THIS SECTION MAY NOT BE HELD LIABLE IN
17 ANY CAUSE OF ACTION RELATED TO A BREACH OF PATIENT CONFIDENTIALITY.

18 (I) A HEALTH CARE PROVIDER ACTING IN GOOD FAITH TO PROVIDE
19 NOTIFICATION IN ACCORDANCE WITH THIS SECTION MAY NOT BE HELD LIABLE IN
20 ANY CAUSE OF ACTION FOR:

21 (1) THE FAILURE TO GIVE THE REQUIRED NOTICE, IF THE
22 CORRECTIONAL EMPLOYEE FAILS TO PROPERLY INITIATE THE NOTIFICATION
23 PROCEDURES DEVELOPED BY THE CORRECTIONAL INSTITUTION UNDER
24 SUBSECTION (G) OF THIS SECTION; OR

25 (2) THE FAILURE OF THE MANAGING OFFICIAL OF THE CORRECTIONAL
26 INSTITUTION WITHIN WHICH THE CORRECTIONAL EMPLOYEE IS EMPLOYED TO
27 SUBSEQUENTLY NOTIFY THE CORRECTIONAL EMPLOYEE OF THE POSSIBLE
28 EXPOSURE TO CONTAGIOUS DISEASE OR VIRUS.

29 (J) A HEALTH CARE PROVIDER MAY NOT BE HELD LIABLE IN ANY CAUSE OF
30 ACTION RELATED TO OBTAINING A BLOOD SAMPLE OR PERFORMING AND
31 INTERPRETING AN APPROVED CONTAGIOUS DISEASE OR VIRUS TEST WITHOUT THE
32 INMATE'S INFORMED CONSENT.

33 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
34 July 1, 1997.