

Department of Legislative Services
Maryland General Assembly
2005 Session

FISCAL AND POLICY NOTE

House Bill 944

(Delegate Lee, *et al.*)

Judiciary

Judicial Proceedings

Criminal Procedure - HIV Testing - Time Limits

This bill establishes time limits relating to HIV testing of persons charged with crimes or delinquent acts that may have caused or resulted in exposure to HIV.

Fiscal Summary

State Effect: None. The changes are procedural in nature and would not directly affect District Court finances. Any additional hearings could be handled with existing budgeted resources.

Local Effect: None. The changes are procedural in nature and would not directly affect circuit court finances. Any additional hearings could be handled with existing budgeted resources.

Small Business Effect: None.

Analysis

Bill Summary: Before ordering an HIV test for a person charged with prohibited exposure, the court must hold a hearing at which both the victim and the person charged with prohibited exposure must be present. Except for a showing of good cause, the court must hold a hearing within 30 days of the State's Attorney's presentment of the victim's written request and issue an order within three days of the conclusion of the hearing.

The court in the county where the prohibited exposure occurred must order a test for HIV within 10 days of a victim's written request to the State's Attorney, instead of on the victim's request.

After a conviction or a finding of a prohibited exposure, a finding of probable cause to believe that a prohibited exposure has occurred, or the granting of probation before judgment, the State's Attorney must within three days instead of promptly, notify the local health officer of the victim's written request for testing.

The local health officer must collect the blood sample of the person who is charged with, convicted of, or found to have committed a prohibited exposure within seven days instead of promptly, of receipt of a court order for testing.

Current Law: "Prohibited exposure" means a crime or delinquent act that may have caused or resulted in exposure to HIV.

Current law provides that the court, State's Attorney, and health officer must act promptly in responses to victim's requests for HIV testing, as opposed to the exact limitations set by the bill.

Background: According to the Centers for Disease Control and Prevention (CDC), about 40,000 people each year become infected with the virus that causes AIDS.

In 2003, there were 284.4 people per 100,000 living with AIDS in Maryland. The number of people living with HIV in Maryland is unknown, but the average, based on the 32 states surveyed by CDC, is 127.8 per 100,000.

Additional Comments: CDC surveyed the following 32 states that have laws or regulations requiring confidential name-based HIV infection reporting: Alabama, Alaska, Arizona, Arkansas, Colorado, Florida, Idaho, Indiana, Iowa, Kansas, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Nebraska, Nevada, New Jersey, New Mexico, North Carolina, North Dakota, Ohio, Oklahoma, South Carolina, South Dakota, Tennessee, Texas, Utah, Virginia, West Virginia, Wisconsin, and Wyoming.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): State's Attorneys' Association, Judiciary (Administrative Office of the Courts), Department of State Police, Department of Legislative Services

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