

**Department of Legislative Services**  
Maryland General Assembly  
2005 Session

**FISCAL AND POLICY NOTE**  
**Revised**

Senate Bill 718

(Senator Middleton, *et al.*)

Education, Health, and Environmental Affairs

Health and Government Operations

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**Hospitals - HIV Testing - Consent and Public Safety Workers**

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This bill requires a hospital to order an HIV test if there has been an exposure between a patient and public safety worker before the patient is admitted to a hospital. The bill further requires a hospital to order an HIV test after the exposure of a health care provider, first responder, or public safety worker if: (1) informed or substitute consent of the patient to test a blood sample already obtained from the patient was sought and the patient refused; and (2) the patient has been informed that the hospital has the authority to test the sample without the patient's consent. Hospitals must attempt to directly notify a patient of the results of the HIV test. The bill also requires the Department of Health and Mental Hygiene (DHMH) and the Maryland Institute for Emergency Medical Services Systems (MIEMSS) to develop regulations to establish procedures to collect information on exposures and refusals to consent by patients. The information must be reported to the Governor and the General Assembly annually beginning on December 1, 2005 and ending December 1, 2008.

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**Fiscal Summary**

**State Effect:** General fund expenditures would increase to the extent that the bill results in an increase in the number of HIV tests conducted by State hospitals. Any such costs are assumed to be minimal.

**Local Effect:** None.

**Small Business Effect:** None.

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## Analysis

**Current Law:** A hospital is required to order an HIV test if: (1) informed or substitute consent of the patient was sought and the patient was unavailable or unable to consent; (2) the “exposed” health care provider promptly notified the hospital of the incident or the first responder has promptly notified the jurisdiction’s medical director and the medical director has promptly notified the hospital where the patient is admitted; (3) the health care provider or first responder gave informed consent and submitted a blood sample; and (4) the hospital determined that testing the patient for HIV would be helpful in managing the provider’s or responder’s risk of disease and health outcome.

A hospital must notify the patient of the test results and, if the results are positive, provide or arrange for counseling and treatment recommendations for the health care provider or first responder and patient. The hospital may not document the test in either the patient’s, the provider’s, or the responder’s medical records. Instead, the hospital must keep a confidential record or incident report of these tests. Hospitals must pay for the HIV testing costs.

**Background:** HIV, the virus that causes AIDS, progressively destroys the body’s ability to fight infections and certain cancers. The National Institute of Allergy and Infectious Diseases reports that it is rare for a health care provider to give a patient, or a patient to give a provider, HIV by accidentally sticking him or her with a contaminated needle or other medical instrument.

According to the Centers for Disease Control and Prevention, 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.

State laboratory costs for an HIV blood test are \$10 for an ELISA or Western Blot test and \$25 for a rapid test.

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## Additional Information

**Prior Introductions:** None.

**Cross File:** HB 827 (Delegate Morhaim, *et al.*) – Health and Government Operations.

**Information Source(s):** Judiciary (Administrative Office of the Courts), Department of Health and Mental Hygiene, Department of Legislative Services

**Fiscal Note History:** First Reader - March 14, 2005  
ncs/jr Revised - Senate Third Reader - April 4, 2005  
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