

SENATE, No. 438

STATE OF NEW JERSEY 219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:

Senator STEVEN V. OROHO

District 24 (Morris, Sussex and Warren)

Senator FRED H. MADDEN, JR.

District 4 (Camden and Gloucester)

SYNOPSIS

Requires medical testing for certain persons in circumstances when first responders may be exposed to bloodborne pathogens.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 **AN ACT** concerning medical testing for bloodborne pathogens for
2 certain persons and supplementing Title 26 of the Revised
3 Statutes.

4
5 **BE IT ENACTED** *by the Senate and General Assembly of the State*
6 *of New Jersey:*

7
8 1. As used in this act:

9 “Bloodborne pathogen” means pathogenic microorganisms that
10 are present in human blood and can cause disease in humans
11 including, but not limited to, hepatitis B, hepatitis C, human
12 immunodeficiency virus (HIV), and any other infectious disease
13 that may be transmitted through exposure to human blood.

14 “First responder” means a law enforcement officer, paid or
15 volunteer firefighter, paid or volunteer member of a duly
16 incorporated first aid, emergency, ambulance, or rescue squad
17 association, or any other individual who, in the course of that
18 individual's employment, is dispatched to the scene of an
19 emergency situation for the purpose of providing medical care or
20 other assistance.

21
22 2. a. In the event that an first responder who interacts with a
23 person, and in the course of the interaction with that person, may
24 have been exposed to a bloodborne pathogen through direct contact
25 with bodily fluid or an accidental prick of a syringe or hypodermic
26 needle, the first responder may notify the local public health officer
27 of the potential exposure within 24 hours of the suspected contact to
28 request that the person submit to serological tests or other medically
29 appropriate tests, including such repeat or confirmatory tests as may
30 be medically appropriate, for infection with a bloodborne pathogen
31 that can be transmitted by contact with bodily fluids.

32 b. A public health officer receiving a request pursuant to
33 subsection a. of this section shall seek to obtain voluntary consent
34 to testing from the person who came into contact with the first
35 responder. If the person does not consent and submit to testing
36 within 24 hours of the public health officer's request, the public
37 health officer shall file an emergency application to a court having
38 jurisdiction for an order requiring the person to submit to testing.

39 c. A court shall grant an order requested pursuant to subsection
40 b. of this section if the court finds, by a preponderance of evidence,
41 that there is a risk that bloodborne pathogen was transmitted as a
42 result of the contact. The court order shall require testing to be
43 performed as soon as practicable by a health care provider or at a
44 health care facility licensed or authorized to administer the ordered
45 testing.

46 d. The results of any testing ordered by a court pursuant to
47 subsection c. of this section shall be disclosed to the person tested
48 and to the first responder who requested the testing, but shall not be

1 disclosed to any other individual except as authorized by law or
2 court order. A court order for testing and any test results shall be
3 confidential and shall not be used for any law enforcement purposes
4 or as evidence in any civil proceeding. A person who knowingly
5 discloses or uses such confidential information in violation of this
6 section is guilty of a crime of the fourth degree.

7 e. In addition to any other disposition authorized, a court may
8 order the person who came into contact with the first responder to
9 reimburse the State for the costs of the tests ordered pursuant to
10 subsection c. of this section.

11 f. A person who performs a test ordered pursuant to subsection
12 c. of this section in accordance with accepted medical standards for
13 the performance of such tests shall be immune from civil and
14 criminal liability arising from the person's conduct.

15 g. This section shall not be construed to preclude or limit any
16 other testing for HIV, hepatitis, or any other infectious disease that
17 is otherwise permitted by statute, court rule, or common law.

18
19 2. This act shall take effect immediately.
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22 STATEMENT

23
24 This bill would provide for the court-ordered testing of certain
25 persons in circumstances when first responders may be exposed to
26 bloodborne pathogens such as hepatitis B, hepatitis C, human
27 immunodeficiency virus (HIV), and any other infectious disease
28 that may be transmitted through exposure to human blood. First
29 responders include enforcement, firefighters, and emergency
30 medical services personnel.

31 Specifically, the bill would provide that a first responder who, in
32 the course of an interaction with a person, may have been exposed
33 to a bloodborne pathogen through direct contact with bodily fluid or
34 an accidental prick of a syringe or hypodermic needle, could notify
35 the local public health officer within 24 hours of the potential
36 exposure.

37 Upon the first responder's request, the public health officer is
38 required to seek consent from the person who came into contact
39 with the first responder to voluntarily submit to serological tests or
40 other medically appropriate tests, including repeat or confirmatory
41 tests, for infection with a bloodborne pathogen that can be
42 transmitted by contact with bodily fluids or an accidental prick of a
43 syringe or hypodermic needle. If the person does not consent and
44 submit to testing within 24 hours of the public health officer's
45 request, the public health officer is required to file an emergency
46 application for a court order requiring the person to submit to
47 testing.

1 The court would be required to grant the order for testing if the
2 court finds, by a preponderance of evidence, that there is a risk that
3 a bloodborne pathogen was transmitted as a result of the contact.
4 The court order would require testing to be performed as soon as
5 practicable by a health care provider or at a health care facility
6 licensed or authorized to administer the ordered testing. The bill
7 authorizes the court to order the person who came into contact with
8 the first responder to reimburse the State for the costs of the tests.

9 The results of any testing would be disclosed to the person tested
10 and the first responder who requested the testing, but are not to be
11 disclosed to any other individual except as authorized by law or
12 court order.

13 A court order for testing and any test results would be
14 confidential and could not be used for any law enforcement
15 purposes or as evidence in any civil proceeding. A person who
16 knowingly discloses or uses such confidential information in
17 violation of the bill would be guilty of a fourth degree crime, which
18 is punishable by imprisonment for up to 18 months, a fine of up to
19 \$10,000, or both.

20 A person who performs a test ordered in accordance with
21 accepted medical standards for the performance of such tests would
22 be immune from civil and criminal liability arising from their
23 conduct.

24 The bill is not to be construed to preclude or limit any other
25 testing for HIV, hepatitis, or any other infectious disease that is
26 otherwise permitted by statute, court rule, or common law.