SENATE, No. 1702

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED FEBRUARY 13, 2020

Sponsored by:
Senator THOMAS H. KEAN, JR.
District 21 (Morris, Somerset and Union)

SYNOPSIS

Requires testing for infectious disease for certain persons who have been administered opioid antidote by first responder.

CURRENT VERSION OF TEXT

As introduced.

AN ACT concerning medical testing of certain persons who have been administered an opioid antidote and supplementing P.L.2013, c.46 (C.24:6J-1 et al.).

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

1. The Legislature finds and declares that:

a. Individuals who intravenously use street drugs such as heroin are significantly more likely than the general population to have certain diseases that spread through bodily fluids, including but not limited to human immunodeficiency virus (HIV), hepatitis, and other bloodborne pathogens, and are therefore more likely to pass infection to other individuals in the event that their bodily fluids contact another person.

b. A first responder who is called to assist an individual who is experiencing an overdose of a controlled dangerous substance may administer an opioid antidote, thereby potentially saving the person's life. However, in the course of such an interaction, the first responder may potentially be exposed to the person's bodily fluids, such as by direct contact with bodily fluids or an accidental prick by a hypodermic needle, thereby risking transmittal of an infectious disease.

c. When a first responder comes into contact with another person's bodily fluid, information as to whether the person is a carrier of an infectious disease may be useful in assessing the risk that the first responder may have been infected. Information concerning the risk of infection may affect medical treatment decisions, and the exposed person may benefit psychologically from knowing whether exposure to the other person's bodily fluids may have resulted in exposure to infectious disease.

d. Although each person has a legitimate privacy interest in keeping the person's disease status private, this interest may be outweighed by the interests of a first responder who may have been exposed to an infectious disease in the course of rendering potentially life-saving assistance to that person.

2. a. In the event that a professional or an emergency medical responder administers an opioid antidote to a person and, in the course of the interaction with that person, the professional or emergency medical responder has contact with the person or an object which involved or was likely to involve the transmission of the person's bodily fluid to the professional or emergency medical responder, the professional or emergency medical responder may notify the local public health officer of the potential contact with bodily fluids within 24 hours of the suspected contact to request that the person submit to serological tests or other medically appropriate tests, including such repeat or confirmatory tests as may

be medically appropriate, for infection with the human immunodeficiency virus (HIV), hepatitis, and any other infectious diseases that can be transmitted by contact with bodily fluids.

b. A public health officer receiving a request pursuant to subsection a. of this section shall seek to obtain voluntary consent to testing from the person who was administered the opioid antidote. If the person does not consent and submit to testing within 24 hours of the public health officer's request, the public health officer shall file an emergency application to a court having jurisdiction for an order requiring the person to submit to testing.

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

d. The results of any testing ordered by a court pursuant to subsection c. of this section shall be disclosed to the person tested and the professional or emergency medical responder who requested the testing, but shall not be disclosed to any other individual except as authorized by law or court order. A consent order for testing and any test results shall be confidential and shall not be used for any law enforcement purposes or as evidence in any civil proceeding. A person who knowingly discloses or uses such confidential information in violation of this section is guilty of a crime of the fourth degree.

e. In addition to any other disposition authorized, a court may order the person who was administered the opioid antidote to reimburse the State for the costs of the tests ordered pursuant to subsection c. of this section.

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

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

h. As used in this section, the terms "emergency medical responder," "opioid antidote," and "professional," have the same meaning as given by section 3 of P.L.2013, c.46 (C.24:6J-3).

3. This act shall take effect immediately.

STATEMENT

This bill would supplement the "Overdose Prevention Act," P.L.2013, c.46 (C.24:6J-1 et al.) to provide for the court-ordered testing of certain persons who have been administered an opioid antidote by a first responder.

The bill provides that, in the event that a professional or an emergency medical responder, including emergency medical technicians, sterile syringe access program workers, and law enforcement officers, administers an opioid antidote to a person and, in the course of the interaction with that person, the professional or emergency medical responder has contact with the person or an object which involved or was likely to involve the transmission of the person's bodily fluid to the professional or emergency medical responder, the professional or emergency medical responder may notify the local public health officer of the potential contact with bodily fluids within 24 hours of the suspected contact to request that the person submit to serological tests or other medically appropriate tests, including such repeat or confirmatory tests as may be medically appropriate, for infection with the human immunodeficiency virus (HIV), hepatitis, and any other infectious diseases that can be transmitted by contact with bodily fluids.

The public health officer would seek to obtain voluntary consent to testing from the person who was administered the opioid antidote. If the person does not consent and submit to testing within 24 hours of the public health officer's request, the public health officer would file an emergency application to a court having jurisdiction for an order requiring the person to submit to testing.

A court would grant the order for testing if the court finds, by a preponderance of evidence, that there is a risk that an infectious disease was transmitted as a result of the contact. The court order would require testing to be performed as soon as practicable by a health care provider or at a health care facility licensed or authorized to administer the ordered testing.

The results of any testing would be disclosed to the person tested and the professional or emergency medical responder who requested the testing, but may not be disclosed to any other individual except as authorized by law or court order. A consent order for testing and any test results would be confidential and could not be used for any law enforcement purposes or as evidence in any civil proceeding. A person who knowingly discloses or uses such confidential information in violation of the bill would be guilty of a crime of the fourth degree.

In addition to any other disposition authorized, a court may order the person who was administered the opioid antidote to reimburse the State for the costs of the tests ordered pursuant to the bill.

A person who performs a test ordered pursuant to the bill in accordance with accepted medical standards for the performance of

such tests would be immune from civil and criminal liability arising from the person's conduct.

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