

SENATE BILL REPORT

SHB 2151

AS PASSED SENATE, MARCH 2, 1994

**Brief Description:** Requiring that victims of felony sex offenses be given notice of HIV test results, whether the results are positive or negative.

**SPONSORS:** House Committee on Health Care (originally sponsored by Representatives L. Johnson, Ballasiotes, Dellwo, Chappell, Cothorn, Conway, Thibaudeau, Talcott, Wood, Heavey, Sheldon, Van Luven, Campbell, Brough, Dorn, Lemmon, Long, Dyer, Kessler, Holm, Wineberry, Basich, Romero, Springer, Hansen, H. Myers, Leonard and Foreman)

**HOUSE COMMITTEE ON HEALTH CARE**

**SENATE COMMITTEE ON HEALTH & HUMAN SERVICES**

**Majority Report:** Do pass.

Signed by Senators Talmadge, Chairman; Wojahn, Vice Chairman; Deccio, Franklin, Fraser, Hargrove, McDonald, Moyer, Prentice and Winsley.

**Staff:** Don Sloma (786-7319)

**Hearing Dates:** February 17, 1994

**BACKGROUND:**

RCW 70.24.105 (2) states:

"No person may disclose or be compelled to disclose the identity of any person upon whom an HIV antibody test is performed, or the results of such a test, nor may the result of a test for any other sexually transmitted disease when it is positive be disclosed."

However, section (2)(g) of that statute grants an exemption to:

"Persons who, because of their behavioral interaction with the infected individual, have been placed at risk for acquisition of a sexually transmitted disease, as provided in RCW 70.24.022, if the health officer or authorized representative believes that the exposed person was unaware that a risk of disease exposure existed and that the disclosure of the identity of the infected person is necessary."

RCW 70.24.105(2)(g) is used as the basis for the release of positive HIV test results to victims of sexual offenses.

The proponents of this measure feel that the law does not clearly authorize the reporting of negative results.

In a related issue, the Department of Community Development was notified by the U.S. Bureau of Justice that Washington State's HIV statute is out of compliance with the federal anti-drug abuse funding requirements because it does not include a clear provision for the reporting of all HIV test results to victims. Noncompliance could result in an annual 10 percent reduction of an \$8 million federal grant.

**SUMMARY:**

Upon request of the victim, disclosure of test results to victims of sexual offenses shall be made if the result is negative or positive. The county prosecuting attorney shall notify the victim of the right to such disclosure. Such disclosure shall be accompanied by appropriate counseling, including information regarding follow-up testing.

**Appropriation:** none

**Revenue:** none

**Fiscal Note:** none requested

**TESTIMONY FOR:**

The bill clarifies existing law and practice and is needed to avoid the possible loss of federal funds.

**TESTIMONY AGAINST:**

The bill is unneeded and deceptive. It could lead people to think they are negative when they are not, or that they are out of danger when they may not be, because HIV is not always detected by anti-body testing.

**TESTIFIED:** Lis Merten, WA State Nurses Assn. (pro); Tom McBride, WA Assn. of Prosecuting Attorneys (pro); Kelly Scott, NW AIDS Foundation (con); Meg Van Schoorl, DCD (neutral); Tim Erickson, State Patrol (pro); Donna Deleno, WA Coalition of Sexual Assault Programs (pro); John Peppert, DOH