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SENATE BILL 5039

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State of Washington                      58th Legislature                      2003 Regular Session

By Senators Kastama, Thibaudeau and Kohl-Welles

Read first time 01/13/2003. Referred to Committee on Health & Long-Term Care.

1            AN ACT Relating to hepatitis C; amending RCW 49.60.172 and  
2 49.60.174; and adding a new section to chapter 70.54 RCW.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4            NEW SECTION.    **Sec. 1.** A new section is added to chapter 70.54 RCW  
5 to read as follows:

6            (1) The secretary of health shall contract, or enter into other  
7 agreements, with the University of Washington medical center to design  
8 and implement all parts of a state plan for the prevention and  
9 management of hepatitis C, by December 31, 2003. In developing the  
10 plan, the parties shall consider the recommendations of:

- 11            (a) The public;
- 12            (b) Patient groups and organizations;
- 13            (c) The department of social and health services, the department of  
14 corrections, and the department of labor and industries;
- 15            (d) Local health departments;
- 16            (e) Public health and clinical laboratories;
- 17            (f) Providers of services to persons with hepatitis C;
- 18            (g) Research scientists; and

1 (h) The centers for disease control and prevention, or other  
2 advisory body that addresses issues related to hepatitis C.

3 (2) The plan must include:

4 (a) An educational program, including public school education, to  
5 heighten awareness and enhance knowledge and understanding of hepatitis  
6 C;

7 (b) A hepatitis C education curriculum for all providers licensed  
8 under chapters 18.79, 18.225, and 18.205 RCW;

9 (c) A training course for persons providing hepatitis C counseling,  
10 which shall include information relating to the special needs of  
11 persons with positive hepatitis C test results, including the  
12 importance of early intervention and treatment and recognition of  
13 psychosocial needs;

14 (d) Provide training to public health clinic staff regarding the  
15 treatment, detection, and methods of transmission of hepatitis C;

16 (e) Voluntary hepatitis C testing programs to be performed at  
17 facilities providing voluntary HIV testing under chapter 70.24 RCW,  
18 which shall make anonymous and confidential hepatitis C testing,  
19 pretest and posttest counseling available;

20 (f) Strategies for the prevention and management of hepatitis C in  
21 injection drug users and persons incarcerated in Washington  
22 correctional institutions;

23 (g) Guidelines for health care professionals to use to prevent  
24 further transmission of the hepatitis C virus and to prevent the onset  
25 of chronic liver disease caused by hepatitis C by detecting and  
26 managing chronic hepatitis C infection; and

27 (h) A comprehensive model, developed by the University of  
28 Washington medical center, for an evidence-based process for the  
29 prevention and management of hepatitis C and applicable to other  
30 diseases.

31 (3) The department of health and the University of Washington may  
32 seek and accept contributions from agencies of the federal government,  
33 private sources, and any other available funds, and may expend the  
34 funds to carry out the purposes of this section.

35 (4) The secretary of health shall adopt rules necessary to  
36 implement this section.

37 (5) The department of health shall submit the completed state plan  
38 to the legislature before implementation and by December 31, 2003.

1 After the initial state plan is submitted, the department shall update  
2 the state plan biennially and shall submit the updated state plan to  
3 the governor, lieutenant governor, and speaker of the house of  
4 representatives by October 1st of each even-numbered year.

5 (6) The state plan described in subsection (2) of this section  
6 shall be implemented within available appropriations. If available  
7 appropriations are inadequate to fund the entire plan, then the plan  
8 shall be implemented in stages, commencing with the educational program  
9 in subsection (2)(a) of this section and proceeding in the order listed  
10 in subsection (2) of this section.

11 **Sec. 2.** RCW 49.60.172 and 1988 c 206 s 903 are each amended to  
12 read as follows:

13 (1) No person may require an individual to take an HIV test, as  
14 defined in chapter 70.24 RCW, or hepatitis C test, as a condition of  
15 hiring, promotion, or continued employment unless the absence of HIV or  
16 hepatitis C infection is a bona fide occupational qualification for the  
17 job in question.

18 (2) No person may discharge or fail or refuse to hire any  
19 individual, or segregate or classify any individual in any way which  
20 would deprive or tend to deprive that individual of employment  
21 opportunities or adversely affect his or her status as an employee, or  
22 otherwise discriminate against any individual with respect to  
23 compensation, terms, conditions, or privileges of employment on the  
24 basis of the results of an HIV test or hepatitis C test unless the  
25 absence of HIV or hepatitis C infection is a bona fide occupational  
26 qualification of the job in question.

27 (3) The absence of HIV or hepatitis C infection as a bona fide  
28 occupational qualification exists when performance of a particular job  
29 can be shown to present a significant risk, as defined by the board of  
30 health by rule, of transmitting HIV or hepatitis C infection to other  
31 persons, and there exists no means of eliminating the risk by  
32 restructuring the job.

33 (4) For the purpose of this chapter, any person who is actually  
34 infected with HIV or hepatitis C, but is not disabled as a result of  
35 the infection, shall not be eligible for any benefits under the  
36 affirmative action provisions of chapter 49.74 RCW solely on the basis  
37 of such infection.

1 (5) Employers are immune from civil action for damages arising out  
2 of transmission of HIV or hepatitis C to employees or to members of the  
3 public unless such transmission occurs as a result of the employer's  
4 gross negligence.

5 **Sec. 3.** RCW 49.60.174 and 1997 c 271 s 6 are each amended to read  
6 as follows:

7 (1) For the purposes of determining whether an unfair practice  
8 under this chapter has occurred, claims of discrimination based on  
9 actual or perceived HIV or hepatitis C infection shall be evaluated in  
10 the same manner as other claims of discrimination based on sensory,  
11 mental, or physical disability; or the use of a trained dog guide or  
12 service animal by a disabled person.

13 (2) Subsection (1) of this section shall not apply to transactions  
14 with insurance entities, health service contractors, or health  
15 maintenance organizations subject to RCW 49.60.030(1)(e) or 49.60.178  
16 to prohibit fair discrimination on the basis of actual HIV or actual  
17 hepatitis C infection status when bona fide statistical differences in  
18 risk or exposure have been substantiated.

19 (3) For the purposes of this chapter((7)):

20 (a) "HIV" means the human immunodeficiency virus, and includes all  
21 HIV and HIV-related viruses which damage the cellular branch of the  
22 human immune system and leave the infected person immunodeficient; and

23 (b) "Hepatitis C" means the hepatitis C virus of any genotype.

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