

**SHB 1551 - H AMD 1026**

By Representative Macri

**ADOPTED AS AMENDED 02/12/2020**

1 Strike everything after the enacting clause and insert the  
2 following:

3 **"Sec. 1.** RCW 70.24.015 and 1988 c 206 s 901 are each amended to  
4 read as follows:

5 The legislature declares that sexually transmitted diseases and  
6 blood-borne pathogens constitute a serious and sometimes fatal threat  
7 to the public and individual health and welfare of the people of the  
8 state. The legislature finds that the incidence of sexually  
9 transmitted diseases and blood-borne pathogens is rising at an  
10 alarming rate and that these diseases result in significant social,  
11 health, and economic costs, including infant and maternal mortality,  
12 temporary and lifelong disability, and premature death. The  
13 legislature further finds that sexually transmitted diseases and  
14 blood-borne pathogens, by their nature, involve sensitive issues of  
15 privacy, and it is the intent of the legislature that all programs  
16 designed to deal with these diseases afford patients privacy,  
17 confidentiality, and dignity. The legislature also finds that medical  
18 knowledge and information about sexually transmitted diseases and  
19 blood-borne pathogens are rapidly changing. It is therefore the  
20 intent of the legislature to provide a program that is sufficiently  
21 flexible to meet emerging needs, deals efficiently and effectively  
22 with reducing the incidence of sexually transmitted diseases and  
23 blood-borne pathogens, and provides patients with a secure knowledge  
24 that information they provide will remain private and confidential.

25 **Sec. 2.** RCW 70.24.017 and 2001 c 319 s 4 are each amended to  
26 read as follows:

27 Unless the context clearly requires otherwise, the definitions in  
28 this section apply throughout this chapter:

29 (1) (~~"Acquired immunodeficiency syndrome" or "AIDS" means the~~  
30 ~~clinical syndrome of HIV-related illness as defined by the board of~~  
31 ~~health by rule.~~) "Blood-borne pathogen" means a pathogenic

1 microorganism that is present in human blood and can cause disease in  
2 humans, including hepatitis B virus, hepatitis C virus, and human  
3 immunodeficiency virus, as well as any other pathogen specified by  
4 the board in rule.

5 (2) "Board" means the state board of health.

6 (3) "Department" means the department of health, or any successor  
7 department with jurisdiction over public health matters.

8 (4) "Health care provider" means any person who is a member of a  
9 profession under RCW 18.130.040 or other person providing medical,  
10 nursing, psychological, or other health care services regulated by  
11 the department of health.

12 (5) "Health care facility" means a hospital, nursing home,  
13 neuropsychiatric or mental health facility, home health agency,  
14 hospice, child care agency, group care facility, family foster home,  
15 clinic, blood bank, blood center, sperm bank, laboratory, or other  
16 social service or health care institution regulated or operated by  
17 the department of health.

18 (6) (~~"HIV-related condition" means any medical condition~~  
19 ~~resulting from infection with HIV including, but not limited to,~~  
20 ~~seropositivity for HIV.)) "Health order" means a written directive  
21 issued by the state or local health officer that requires the  
22 recipient to take specific action to remove, reduce, control or  
23 prevent a risk to public health.~~

24 (7) "Human immunodeficiency virus" or "HIV" means all HIV and  
25 HIV-related viruses which damage the cellular branch of the human  
26 immune (~~(or neurological)~~) system(~~(s)~~) and leave the (~~(infected)~~)  
27 person immunodeficient (~~(or neurologically impaired)~~).

28 (8) "Test for a sexually transmitted disease" means a test  
29 approved by the board by rule.

30 (9) "Legal guardian" means a person appointed by a court to  
31 assume legal authority for another who has been found incompetent or,  
32 in the case of a minor, a person who has legal custody of the child.

33 (10) "Local (~~(public)~~) health officer" (~~(means the officer~~  
34 ~~directing the county health department or his or her designee who has~~  
35 ~~been given the responsibility and authority to protect the health of~~  
36 ~~the public within his or her jurisdiction)) has the same meaning as  
37 in RCW 70.05.010.~~

38 (11) "Medical treatment" includes treatment for curable diseases  
39 and treatment that causes a person to be unable to transmit a disease

1 to others, based upon generally accepted standards of medical and  
2 public health science, as specified by the board in rule.

3 (12) "Person" includes any natural person, partnership,  
4 association, joint venture, trust, public or private corporation, or  
5 health facility.

6 ~~((12) "Release of test results" means a written authorization~~  
7 ~~for disclosure of any sexually transmitted disease test result which~~  
8 ~~is signed, dated, and which specifies to whom disclosure is~~  
9 ~~authorized and the time period during which the release is to be~~  
10 ~~effective.))~~

11 (13) "Sexually transmitted disease" means a bacterial, viral,  
12 fungal, or parasitic ~~((disease))~~ infection, determined by the board  
13 by rule to be sexually transmitted, to be a threat to the public  
14 health and welfare, and to be ~~((a disease))~~ an infection for which a  
15 legitimate public interest will be served by providing for regulation  
16 and treatment. The board shall designate chancroid, gonorrhea,  
17 granuloma inguinale, lymphogranuloma venereum, genital herpes  
18 simplex, chlamydia, ~~((nongonococcal urethritis (NGU),))~~ trachomitis,  
19 genital human papilloma virus infection, syphilis, ~~((acquired~~  
20 ~~immunodeficiency syndrome (AIDS),))~~ and human immunodeficiency virus  
21 (HIV) infection as sexually transmitted diseases, and shall consider  
22 the recommendations and classifications of the centers for disease  
23 control and other nationally recognized medical authorities in  
24 designating other diseases as sexually transmitted.

25 (14) "State ~~((public))~~ health officer" means the secretary of  
26 health or an officer appointed by the secretary.

27 **Sec. 3.** RCW 70.24.024 and 1988 c 206 s 909 are each amended to  
28 read as follows:

29 (1) Subject to the provisions of this chapter, the state and  
30 local ~~((public))~~ health officers or their authorized representatives  
31 may examine and counsel ~~((or cause to be examined and counseled))~~  
32 persons reasonably believed to be infected with or to have been  
33 exposed to a sexually transmitted disease.

34 ~~((Orders or restrictive measures directed to persons with a~~  
35 ~~sexually transmitted disease shall be used as the last resort when~~  
36 ~~other measures to protect the public health have failed, including~~  
37 ~~reasonable efforts, which shall be documented, to obtain the~~  
38 ~~voluntary cooperation of the person who may be subject to such an~~  
39 ~~order. The orders and measures shall be applied serially with the~~

1 ~~least intrusive measures used first. The burden of proof shall be on~~  
2 ~~the state or local public health officer to show that specified~~  
3 ~~grounds exist for the issuance of the orders or restrictive measures~~  
4 ~~and that the terms and conditions imposed are no more restrictive~~  
5 ~~than necessary to protect the public health.~~

6 ~~(3) When the state or local public health officer within his or~~  
7 ~~her respective jurisdiction knows or has reason to believe, because~~  
8 ~~of direct medical knowledge or reliable testimony of others in a~~  
9 ~~position to have direct knowledge of a person's behavior, that a~~  
10 ~~person has a sexually transmitted disease and is engaging in~~  
11 ~~specified conduct, as determined by the board by rule based upon~~  
12 ~~generally accepted standards of medical and public health science,~~  
13 ~~that endangers the public health, he or she shall conduct an~~  
14 ~~investigation in accordance with procedures prescribed by the board~~  
15 ~~to evaluate the specific facts alleged, if any, and the reliability~~  
16 ~~and credibility of the person or persons providing such information~~  
17 ~~and, if satisfied that the allegations are true, he or she may issue~~  
18 ~~an order according to the following priority to:~~

19 ~~(a) Order a person to))~~ (a) The state or a local health officer  
20 may conduct an investigation when:

21 (i) He or she knows or has reason to believe that a person in his  
22 or her jurisdiction has a sexually transmitted disease and is  
23 engaging in specified behavior that endangers the public health; and

24 (ii) The basis for the health officer's investigation is the  
25 officer's direct medical knowledge or reliable testimony of another  
26 who is in a position to have direct knowledge of the person's  
27 behavior.

28 (b) In conducting the investigation, the health officer shall  
29 evaluate the allegations, as well as the reliability and credibility  
30 of any person or persons who provided information related to the  
31 specified behavior that endangers the public health.

32 (3) If the state or local health officer determines upon  
33 conclusion of the investigation that the allegations are true and  
34 that the person continues to engage in behavior that endangers the  
35 public health, the health officer shall document measures taken to  
36 protect the public health, including reasonable efforts to obtain the  
37 person's voluntary cooperation.

38 (4) (a) If the measures taken under subsection (3) of this section  
39 fail to protect the public health, the state or local health officer  
40 may issue a health order requiring the person to:

1 (i) Submit to a medical examination or testing, ((seek)) receive  
2 counseling, or ((obtain)) receive medical treatment ((for curable  
3 diseases)), or any combination of these((, within a period of time  
4 determined by the public health officer, not to exceed fourteen days.

5 (b) Order a person to)). If ordering a person to receive medical  
6 treatment, the health officer must provide the person with at least  
7 one additional appropriate option to choose from in the health order;  
8 or

9 (ii) Immediately cease and desist from specified ((conduct  
10 which)) behavior that endangers the public health ((of others)) by  
11 imposing such restrictions upon the person as are necessary to  
12 prevent the specified ((conduct)) behavior that endangers the public  
13 health ((of others only if the public health officer has determined  
14 that clear and convincing evidence exists to believe that such person  
15 has been ordered to report for counseling as provided in (a) of this  
16 subsection and continues to demonstrate behavior which endangers the  
17 health of others)).

18 (b) Any restriction shall be in writing, setting forth the name  
19 of the person to be restricted ((and)), the initial period of time((, not to exceed three months,))  
20 during which the health order shall  
21 remain effective, the terms of the restrictions, and such other  
22 conditions as may be necessary to protect the public health.  
23 Restrictions shall be imposed in the least-restrictive manner  
24 necessary to protect the public health. The period of time during  
25 which the health order is effective must be reasonably related to the  
26 purpose of the restriction or restrictions contained in the order, up  
27 to a maximum period of twelve months.

28 ((4)) (5)(a) Upon the issuance of ((any)) a health order ((by  
29 the state or local public health officer or an authorized  
30 representative)) pursuant to subsection ((3)) (4) of this section  
31 ((or RCW 70.24.340(4), such public)), the state or local health  
32 officer shall give written notice promptly, personally, and  
33 confidentially to the person who is the subject of the order stating  
34 the grounds and provisions of the order, including the factual bases  
35 therefor, the evidence relied upon for proof of infection and  
36 dangerous behavior, and the likelihood of repetition of such  
37 behaviors in the absence of such an order((, and notifying)). The  
38 written notice must inform the person who is the subject of the order  
39 that, if he or she contests the order, he or she may file an appeal  
40 and appear at a judicial hearing on the enforceability of the order,

1 to be held in superior court. (~~He or she may have an attorney appear~~  
2 ~~on his or her behalf in the hearing at public expense, if~~  
3 ~~necessary.)) The hearing shall be held within seventy-two hours of~~  
4 ~~receipt of the notice, unless the person subject to the order agrees~~  
5 ~~to comply. If the person contests the order, no invasive medical~~  
6 ~~procedures shall be carried out prior to a hearing being held~~  
7 ~~pursuant to this subsection. ((If the person does not contest the~~  
8 ~~order within seventy-two hours of receiving it, and the person does~~  
9 ~~not comply with the order within the time period specified for~~  
10 ~~compliance with the order, the state or local public health officer~~  
11 ~~may request a warrant be issued by the superior court to insure~~  
12 ~~appearance at the hearing. The hearing shall be within seventy-two~~  
13 ~~hours of the expiration date of the time specified for compliance~~  
14 ~~with the original order.))~~

15 (b) The health officer may apply to the superior court for a  
16 court order requiring the person to comply with the health order if  
17 the person fails to comply with the health order within the time  
18 period specified.

19 (c) At a hearing held pursuant to (a) or (b) of this subsection  
20 (5), the person subject to the health order may have an attorney  
21 appear on his or her behalf at public expense, if necessary. The  
22 burden of proof shall be on the ((~~public~~)) health officer to show by  
23 clear and convincing evidence that the specified grounds exist for  
24 the issuance of the order and for the need for compliance and that  
25 the terms and conditions imposed therein are no more restrictive than  
26 necessary to protect the public health. Upon conclusion of the  
27 hearing, the court shall issue appropriate orders affirming,  
28 modifying, or dismissing the health order.

29 ((~~(b)~~)) (d) If the superior court dismisses the health order ((~~of~~  
30 ~~the public health officer~~)), the fact that the order was issued shall  
31 be expunged from the records of the department or local department of  
32 health.

33 ((~~(5)~~)) ~~Any hearing conducted pursuant to this section shall be~~  
34 ~~closed and confidential unless a public hearing is requested by the~~  
35 ~~person who is the subject of the order, in which case the hearing~~  
36 ~~will be conducted in open court. Unless in open hearing, any~~  
37 ~~transcripts or records relating thereto shall also be confidential~~  
38 ~~and may be sealed by the order of the court.))~~

1        NEW SECTION.    **Sec. 4.**    A new section is added to chapter 70.24  
2    RCW to read as follows:

3        A person who violates or fails to comply with a health order  
4    issued under RCW 70.24.024 is guilty of a gross misdemeanor  
5    punishable by confinement until the order has been complied with or  
6    terminated, up to a maximum period of three hundred sixty-four days.  
7    In lieu of confinement, the court may place the defendant on  
8    probation upon condition that the defendant comply with the health  
9    order, up to the length of the health order. If the defendant is  
10   placed on probation and subsequently violates or fails to comply with  
11   the health order, the court shall revoke the probation and reinstate  
12   the original sentence of confinement.

13       NEW SECTION.    **Sec. 5.**    A new section is added to chapter 70.24  
14    RCW to read as follows:

15        (1) It is unlawful for a person who knows that he or she has HIV  
16    to have sexual intercourse if:

17        (a) The person has been counseled by a health care provider or  
18    public health professional regarding the risk of transmitting HIV to  
19    others;

20        (b) The partner or partners exposed to HIV through sexual  
21    intercourse did not know that the person had HIV; and

22        (c) The person intended to transmit HIV to the partner.

23        (2) It is a defense to a prosecution under this section if:

24        (a) HIV was not transmitted to the partner; or

25        (b) The person took or attempted to take practical means to  
26    prevent transmission of HIV.

27        (3) (a) Except as provided in (b) of this subsection, violation of  
28    this section is a misdemeanor punishable as provided in RCW  
29    9A.20.021.

30        (b) Violation of this section is a gross misdemeanor punishable  
31    as provided in RCW 9A.20.021 if the person knowingly misrepresented  
32    his or her infection status to the partner.

33        (c) Violation of this section does not require registration under  
34    RCW 9A.44.130.

35        (4) For purposes of this section, the following terms have the  
36    following meanings:

37        (a) "Practical means to prevent transmission" means good faith  
38    employment of an activity, behavior, method, or device that is  
39    scientifically demonstrated to measurably reduce the risk of

1 transmitting a sexually transmitted disease, including but not  
2 limited to: The use of a condom, barrier protection, or other  
3 prophylactic device; or good faith participation in a treatment  
4 regimen prescribed by a health care provider or public health  
5 professional.

6 (b) "Sexual intercourse" has its ordinary meaning and occurs upon  
7 any penetration, however slight, of the vagina or anus of one person  
8 by the sexual organs of another whether such persons are of the same  
9 or another sex.

10 **Sec. 6.** RCW 70.24.080 and 1988 c 206 s 911 are each amended to  
11 read as follows:

12 Except as provided in sections 4 and 5 of this act, any person  
13 who (~~shall~~) violates any of the provisions of this chapter or any  
14 (~~lawful~~) rule adopted by the board (~~pursuant to the authority~~  
15 ~~herein granted~~) under this chapter, or who (~~shall~~) fails or  
16 refuses to obey any lawful order issued by any state, county or  
17 municipal (~~public~~) health officer (~~, pursuant to the authority~~  
18 ~~granted in~~) under this chapter (~~,~~) shall be deemed guilty of a  
19 gross misdemeanor punishable as provided under RCW 9A.20.021.

20 **Sec. 7.** RCW 70.24.110 and 1988 c 206 s 912 are each amended to  
21 read as follows:

22 A minor fourteen years of age or older who may have come in  
23 contact with any sexually transmitted disease or suspected sexually  
24 transmitted disease may give consent to the furnishing of hospital,  
25 medical, and surgical care related to the diagnosis or treatment of  
26 such disease; and treatment to avoid HIV infection. Such consent  
27 shall not be subject to disaffirmance because of minority. The  
28 consent of the parent, parents, or legal guardian of such minor shall  
29 not be necessary to authorize hospital, medical, and surgical care  
30 related to such disease, and such parent, parents, or legal guardian  
31 shall not be liable for payment for any care rendered pursuant to  
32 this section.

33 **Sec. 8.** RCW 70.24.120 and 1991 c 3 s 324 are each amended to  
34 read as follows:

35 (~~Sexually transmitted~~) (1) Disease case investigators, upon  
36 specific authorization from a physician or by a physician's standing  
37 order, are hereby authorized to (~~perform~~) gather specimens,



1 including through performance of venipuncture or ((skin)) ~~fingerstick~~  
2 puncture ((~~on~~)), ~~from~~ a person for the sole purpose of ((~~withdrawing~~  
3 blood)) ~~obtaining specimens~~ for use in ((~~sexually transmitted disease~~  
4 tests)) ~~testing for sexually transmitted diseases, blood-borne~~  
5 pathogens, and other infections as defined by board rule.

6 ((~~The term "sexually transmitted~~)) (2) For the purposes of this  
7 section:

8 (a) "Disease case investigator" ((shall)) means only those  
9 persons who:

10 ((~~1~~)) (i) Are employed by public health authorities; and

11 ((~~2~~)) (ii) Have been trained by a physician in proper  
12 procedures to be employed when ((~~withdrawing~~)) ~~collecting specimens,~~  
13 including blood, in accordance with training requirements established  
14 by the department of health; and

15 ((~~3~~)) (iii) Possess a statement signed by the instructing  
16 physician that the training required by (a)(ii) of this subsection  
17 ((~~2~~ of this section)) has been successfully completed.

18 ((~~The term~~)) (b) "Physician" means any person licensed under the  
19 provisions of chapters 18.57 or 18.71 RCW.

20 **Sec. 9.** RCW 70.24.130 and 1991 c 3 s 325 are each amended to  
21 read as follows:

22 (1) The board shall adopt such rules as are necessary to  
23 implement and enforce this chapter((~~. Rules may also be adopted by~~  
24 the department of health for the purposes of this chapter. The rules  
25 may include)), ~~including, but not limited to, rules:~~

26 (a) Establishing procedures for taking appropriate action, in  
27 addition to any other penalty under this chapter, with regard to  
28 health care facilities or health care providers ((~~which~~)) ~~that~~  
29 violate this chapter or the rules adopted under this chapter((~~. The~~  
30 rules shall prescribe));

31 (b) Prescribing stringent safeguards to protect the  
32 confidentiality of the persons and records subject to this chapter,  
33 consistent with chapter 70.02 RCW;

34 (c) Establishing reporting requirements for sexually transmitted  
35 diseases;

36 (d) Establishing procedures for investigations under RCW  
37 70.24.024;

1 (e) Specifying, for purposes of RCW 70.24.024, behavior that  
2 endangers the public health, based upon generally accepted standards  
3 of medical and public health science;

4 (f) Defining, for the purposes of RCW 70.24.120, specimens that  
5 can be obtained and tests that can be administered for sexually  
6 transmitted diseases, blood-borne pathogens, and other infections;

7 (g) Determining, for purposes of RCW 70.24.340, categories of  
8 employment that are at risk of substantial exposure to a blood-borne  
9 pathogen; and

10 (h) Defining, for purposes of RCW 70.24.340, 70.24.360, and  
11 70.24.370, what constitutes an exposure that presents a possible risk  
12 of transmission of a blood-borne pathogen.

13 (2) In addition to any rules adopted by the board, the department  
14 may adopt any rules necessary to implement and enforce this chapter.

15 (3) The procedures set forth in chapter 34.05 RCW apply to the  
16 administration of this chapter, except that in case of conflict  
17 between chapter 34.05 RCW and this chapter, the provisions of this  
18 chapter shall control.

19 **Sec. 10.** RCW 70.24.220 and 1988 c 206 s 401 are each amended to  
20 read as follows:

21 The legislature finds that the public schools provide a unique  
22 and appropriate setting for educating young people about the  
23 pathology and prevention of ~~((acquired immunodeficiency syndrome~~  
24 ~~-(AIDS))~~) sexually transmitted diseases. The legislature recognizes  
25 that schools and communities vary throughout the state and that  
26 locally elected school directors should have a significant role in  
27 establishing a program of ~~((AIDS))~~ sexually transmitted disease  
28 education in their districts, consistent with RCW 28A.230.020 and  
29 28A.300.475.

30 **Sec. 11.** RCW 70.24.290 and 1988 c 206 s 606 are each amended to  
31 read as follows:

32 The superintendent of public instruction shall adopt rules that  
33 require appropriate education and training, to be included as part of  
34 their present continuing education requirements, for public school  
35 employees on the prevention, transmission, and treatment of ~~((AIDS))~~  
36 blood-borne pathogens. The superintendent of public instruction, in  
37 consultation with the department of health, shall ~~((work with the~~

1 ~~office on AIDS under RCW 70.24.250 to~~) develop the educational and  
2 training material necessary for school employees.

3 **Sec. 12.** RCW 70.24.325 and 1989 c 387 s 1 are each amended to  
4 read as follows:

5 (1) This section shall apply to ~~((counseling and))~~ consent for  
6 ~~((HIV))~~ blood-borne pathogen testing administered as part of an  
7 application for coverage authorized under Title 48 RCW.

8 (2) Persons subject to regulation under Title 48 RCW who are  
9 requesting an insured, a subscriber, or a potential insured or  
10 subscriber to furnish the results of ~~((an HIV))~~ a blood-borne  
11 pathogen test for underwriting purposes as a condition for obtaining  
12 or renewing coverage under an insurance contract, health care service  
13 contract, or health maintenance organization agreement shall:

14 (a) Provide written information to the individual prior to being  
15 tested which explains ~~((~~

16 ~~(i) What an HIV test is;~~

17 ~~(ii) Behaviors that place a person at risk for HIV infection;~~

18 ~~(iii))~~ which blood-borne pathogen test is being administered;

19 and that the purpose of ((HIV)) blood-borne pathogen testing in this  
20 setting is to determine eligibility for coverage ~~((~~

21 ~~(iv) The potential risks of HIV testing; and~~

22 ~~(v) Where to obtain HIV pretest counseling))~~.

23 (b) Obtain informed specific written consent for ~~((an HIV test))~~  
24 the blood-borne pathogen test or tests. The written informed consent  
25 shall include ~~((~~

26 ~~(i))~~ an explanation of the confidential treatment of the test  
27 results which limits access to the results to persons involved in  
28 handling or determining applications for coverage or claims of the  
29 applicant or claimant ~~((and to those persons designated under~~  
30 ~~(e)(iii) of this subsection; and~~

31 ~~(ii) Requirements under (e)(iii) of this subsection))~~.

32 (c) Establish procedures to inform an applicant of the following:

33 (i) ~~((That post-test counseling, as specified under WAC~~  
34 ~~248-100-209(4), is required if an HIV test is positive or~~  
35 ~~indeterminate;~~

36 ~~(ii) That post-test counseling occurs at the time a positive or~~  
37 ~~indeterminate HIV test result is given to the tested individual;~~

38 ~~(iii))~~ That the applicant may designate a health care provider  
39 or health care agency to whom the insurer, the health care service

1 contractor, or health maintenance organization will provide  
2 ~~((positive or indeterminate))~~ test results indicative of infection  
3 with a blood-borne pathogen for interpretation ~~((and post-test~~  
4 ~~counseling. When an applicant does not identify a designated health~~  
5 ~~care provider or health care agency and the applicant's test results~~  
6 ~~are either positive or indeterminate, the insurer, the health care~~  
7 ~~service contractor, or health maintenance organization shall provide~~  
8 ~~the test results to the local health department for interpretation~~  
9 ~~and post-test counseling)); and~~

10 ~~((iv))~~ (ii) That ~~((positive or indeterminate HIV))~~ test results  
11 ~~((shall not))~~ indicative of infection with a blood-borne pathogen  
12 will be sent directly to the applicant.

13 **Sec. 13.** RCW 70.24.340 and 2011 c 232 s 2 are each amended to  
14 read as follows:

15 ~~((1) Local health departments authorized under this chapter~~  
16 ~~shall conduct or cause to be conducted pretest counseling, HIV~~  
17 ~~testing, and posttest counseling of all persons:~~

18 ~~(a) Convicted of a sexual offense under chapter 9A.44 RCW;~~

19 ~~(b) Convicted of prostitution or offenses relating to~~  
20 ~~prostitution under chapter 9A.88 RCW; or~~

21 ~~(c) Convicted of drug offenses under chapter 69.50 RCW if the~~  
22 ~~court determines at the time of conviction that the related drug~~  
23 ~~offense is one associated with the use of hypodermic needles.~~

24 ~~(2) Such testing shall be conducted as soon as possible after~~  
25 ~~sentencing and shall be so ordered by the sentencing judge.~~

26 ~~(3) This section applies only to offenses committed after March~~  
27 ~~23, 1988.~~

28 ~~(4))~~ A law enforcement officer, firefighter, health care  
29 provider, health care facility staff person, department of  
30 corrections' staff person, jail staff person, or person employed in  
31 other categories of employment ~~((determined by the board in rule))~~ to  
32 be at risk of ~~((substantial))~~ exposure ~~((to HIV))~~ that presents a  
33 possible risk of transmission of a blood-borne pathogen, who has  
34 experienced ~~((a substantial))~~ an exposure to another person's bodily  
35 fluids in the course of his or her employment, may request a state or  
36 local ~~((public))~~ health officer to order ~~((pretest counseling, HIV~~  
37 ~~testing, and posttest counseling))~~ blood-borne pathogen testing for  
38 the person whose bodily fluids he or she has been exposed to. ~~((A~~  
39 ~~person eligible to request a state or local health official to order~~

1 ~~HIV testing under this chapter and board rule may also request a~~  
2 ~~state or local health officer to order testing for other blood-borne~~  
3 ~~pathogens.))~~ If the state or local ((~~public~~)) health officer refuses  
4 to order ((~~counseling and~~)) testing under this ((~~sub~~))section, the  
5 person who made the request may petition the superior court for a  
6 hearing to determine whether an order shall be issued. The hearing on  
7 the petition shall be held within seventy-two hours of filing the  
8 petition, exclusive of Saturdays, Sundays, and holidays. The standard  
9 of review to determine whether the ((~~public~~)) state or local health  
10 officer shall be required to issue the order is whether  
11 ((~~substantial~~)) an exposure occurred and whether that exposure  
12 presents a possible risk of transmission of ((~~the HIV virus as~~  
13 ~~defined by the board by rule~~)) a blood-borne pathogen. Upon  
14 conclusion of the hearing, the court shall issue the appropriate  
15 order((, ~~which may require additional testing for other blood-borne~~  
16 ~~pathogens~~)).

17 The person who is subject to the state or local ((~~public~~)) health  
18 officer's order to receive ((~~counseling and~~)) testing shall be given  
19 written notice of the order promptly, personally, and confidentially,  
20 stating the grounds and provisions of the order, including the  
21 factual basis therefor. If the person who is subject to the order  
22 refuses to comply, the state or local ((~~public~~)) health officer may  
23 petition the superior court for a hearing. The hearing on the  
24 petition shall be held within seventy-two hours of filing the  
25 petition, exclusive of Saturdays, Sundays, and holidays. The standard  
26 of review for the order is whether ((~~substantial~~)) an exposure  
27 occurred and whether that exposure presents a possible risk of  
28 transmission of ((~~the HIV virus as defined by the board by rule~~)) a  
29 blood-borne pathogen. Upon conclusion of the hearing, the court shall  
30 issue the appropriate order.

31 The state or local ((~~public~~)) health officer shall perform  
32 ((~~counseling and~~)) testing under this ((~~sub~~))section if he or she  
33 finds that the exposure ((~~was substantial and~~)) presents a possible  
34 risk ((~~as defined by the board of health by rule~~)) of transmission of  
35 a blood-borne pathogen or if he or she is ordered to do so by a  
36 court.

37 The ((~~counseling and~~)) testing required under this ((~~sub~~))section  
38 shall be completed as soon as possible after the substantial exposure  
39 or ((~~after an order is issued by a court, but shall begin not later~~  
40 ~~than~~)), if ordered by the court, within seventy-two hours ((~~after the~~

1 ~~substantial exposure or an order is issued by the court))~~ of the  
2 order's issuance.

3 **Sec. 14.** RCW 70.24.360 and 1988 c 206 s 706 are each amended to  
4 read as follows:

5 Jail administrators, with the approval of the local ~~((public))~~  
6 health officer, may order ~~((pretest counseling, HIV testing, and~~  
7 ~~posttest counseling for persons))~~ blood-borne pathogen testing for a  
8 person detained in the jail if the local ~~((public))~~ health officer  
9 determines that ~~((actual or threatened))~~ the detainee's behavior  
10 ~~((presents a possible risk to))~~ exposed the staff, general public, or  
11 other persons, and that exposure presents a possible risk of  
12 transmitting a blood-borne pathogen. ~~((Approval of the local public~~  
13 ~~health officer shall be based on RCW 70.24.024(3) and may be~~  
14 ~~contested through RCW 70.24.024(4). The administrator shall~~  
15 ~~establish, pursuant to RCW 70.48.071, a procedure to document the~~  
16 ~~possible risk which is the basis for the HIV testing. "Possible~~  
17 ~~risk," as used in this section, shall be defined by the board in~~  
18 ~~rule.))~~ Documentation of the behavior~~((, or threat thereof,))~~  
19 be reviewed with the person to ~~((try to assure))~~ ensure that the  
20 person understands the basis for testing.

21 **Sec. 15.** RCW 70.24.370 and 1988 c 206 s 707 are each amended to  
22 read as follows:

23 (1) ~~((Department of corrections facility administrators may order~~  
24 ~~pretest counseling, HIV testing, and posttest counseling for inmates~~  
25 ~~if the secretary of corrections or the secretary's designee~~  
26 ~~determines that actual or threatened))~~ The chief medical officer of  
27 the department of corrections may order blood-borne pathogen testing  
28 for an inmate if the chief medical officer or his or her designee  
29 determines that the inmate's behavior ~~((presents a possible risk to))~~  
30 exposed the staff, general public, or other inmates, and that  
31 exposure presents a possible risk of transmitting a blood-borne  
32 pathogen. The department of corrections shall establish a procedure  
33 to document the exposure that presents a possible risk of  
34 transmitting a blood-borne pathogen which is the basis for the  
35 ~~((HIV))~~ testing. ~~((("Possible risk," as used in this section, shall be~~  
36 ~~defined by the department of corrections after consultation with the~~  
37 ~~board. Possible risk, as used in the documentation of the behavior,~~  
38 ~~or threat thereof, shall be reviewed with the inmate.))~~ The chief

1 medical officer, or his or her designee, shall review the exposure  
2 that presents a possible risk of transmitting a blood-borne pathogen  
3 in the documentation of the behavior with the inmate to ensure that  
4 he or she understands the basis for the testing.

5 ~~(2) ((Department of corrections administrators and~~  
6 ~~superintendents who are authorized to make decisions about testing~~  
7 ~~and dissemination of test information shall, at least annually,~~  
8 ~~participate in training seminars on public health considerations~~  
9 ~~conducted by the assistant secretary for public health or her or his~~  
10 ~~designee.~~

11 ~~(3))~~ Administrative hearing requirements set forth in chapter  
12 34.05 RCW do not apply to the procedure developed by the department  
13 of corrections pursuant to this section. This section shall not be  
14 construed as requiring any hearing process except as may be required  
15 under existing federal constitutional law.

16 ~~((4) RCW 70.24.340 does not apply to the department of~~  
17 ~~corrections or to inmates in its custody or subject to its~~  
18 ~~jurisdiction.))~~

19 **Sec. 16.** RCW 9A.36.011 and 1997 c 196 s 1 are each amended to  
20 read as follows:

21 (1) A person is guilty of assault in the first degree if he or  
22 she, with intent to inflict great bodily harm:

23 (a) Assaults another with a firearm or any deadly weapon or by  
24 any force or means likely to produce great bodily harm or death; or

25 (b) Administers, exposes, or transmits to or causes to be taken  
26 by another, poison(~~(, the human immunodeficiency virus as defined in~~  
27 ~~chapter 70.24 RCW,)) or any other destructive or noxious substance;  
28 or~~

29 (c) Assaults another and inflicts great bodily harm.

30 (2) Assault in the first degree is a class A felony.

31 **Sec. 17.** RCW 18.35.040 and 2014 c 189 s 4 are each amended to  
32 read as follows:

33 (1) An applicant for licensure as a hearing aid specialist must  
34 have the following minimum qualifications and shall pay a fee  
35 determined by the secretary as provided in RCW 43.70.250. An  
36 applicant shall be issued a license under the provisions of this  
37 chapter if the applicant has not committed unprofessional conduct as  
38 specified by chapter 18.130 RCW, and:

1 (a) (i) Satisfactorily completes the hearing aid specialist  
2 examination required by this chapter; and

3 (ii) Satisfactorily completes:

4 (A) A minimum of a two-year degree program in hearing aid  
5 specialist instruction. The program must be approved by the board;

6 (B) A two-year or four-year degree in a field of study approved  
7 by the board from an accredited institution, a nine-month  
8 board-approved certificate program offered by a board-approved  
9 hearing aid specialist program, and the practical examination  
10 approved by the board. The practical examination must be given at  
11 least quarterly, as determined by the board. The department may hire  
12 licensed industry experts approved by the board to proctor the  
13 examination; or

14 (b) Holds a current, unsuspended, unrevoked license from another  
15 jurisdiction if the standards for licensing in such other  
16 jurisdiction are substantially equivalent to those prevailing in this  
17 state as provided in (a) of this subsection; or

18 (c) (i) Holds a current, unsuspended, unrevoked license from  
19 another jurisdiction, has been actively practicing as a licensed  
20 hearing aid specialist in another jurisdiction for at least forty-  
21 eight of the last sixty months, and submits proof of completion of  
22 advance certification from either the international hearing society  
23 or the national board for certification in hearing instrument  
24 sciences; and

25 (ii) Satisfactorily completes the hearing aid specialist  
26 examination required by this chapter or a substantially equivalent  
27 examination approved by the board.

28 The applicant must present proof of qualifications to the board  
29 in the manner and on forms prescribed by the secretary (~~and proof of~~  
30 ~~completion of a minimum of four clock hours of AIDS education and~~  
31 ~~training pursuant to rules adopted by the board)).~~

32 (2) (a) An applicant for licensure as a speech-language  
33 pathologist or audiologist must have the following minimum  
34 qualifications:

35 (i) Has not committed unprofessional conduct as specified by the  
36 uniform disciplinary act;

37 (ii) Has a master's degree or the equivalent, or a doctorate  
38 degree or the equivalent, from a program at a board-approved  
39 institution of higher learning, which includes completion of a



1 supervised clinical practicum experience as defined by rules adopted  
2 by the board; and

3 (iii) Has completed postgraduate professional work experience  
4 approved by the board.

5 (b) All qualified applicants must satisfactorily complete the  
6 speech-language pathology or audiology examinations required by this  
7 chapter.

8 (c) The applicant must present proof of qualifications to the  
9 board in the manner and on forms prescribed by the secretary (~~and  
10 proof of completion of a minimum of four clock hours of AIDS  
11 education and training pursuant to rules adopted by the board~~)).

12 (3) An applicant for certification as a speech-language pathology  
13 assistant shall pay a fee determined by the secretary as provided in  
14 RCW 43.70.250 and must have the following minimum qualifications:

15 (a) An associate of arts or sciences degree, or a certificate of  
16 proficiency, from a speech-language pathology assistant program from  
17 an institution of higher education that is approved by the board, as  
18 is evidenced by the following:

19 (i) Transcripts showing forty-five quarter hours or thirty  
20 semester hours of speech-language pathology coursework; and

21 (ii) Transcripts showing forty-five quarter hours or thirty  
22 semester hours of general education credit; or

23 (b) A bachelor of arts or bachelor of sciences degree, as  
24 evidenced by transcripts, from a speech, language, and hearing  
25 program from an institution of higher education that is approved by  
26 the board.

27 **Sec. 18.** RCW 49.44.180 and 2004 c 12 s 1 are each amended to  
28 read as follows:

29 It shall be unlawful for any person, firm, corporation, or the  
30 state of Washington, its political subdivisions, or municipal  
31 corporations to require, directly or indirectly, that any employee or  
32 prospective employee submit genetic information or submit to  
33 screening for genetic information as a condition of employment or  
34 continued employment.

35 "Genetic information" for purposes of this chapter, is  
36 information about inherited characteristics that can be derived from  
37 a DNA-based or other laboratory test, family history, or medical  
38 examination. "Genetic information" for purposes of this chapter, does  
39 not include: (1) Routine physical measurements, including chemical,

1 blood, and urine analysis, unless conducted purposefully to diagnose  
2 genetic or inherited characteristics; and (2) results from tests for  
3 abuse of alcohol or drugs (~~(, or for the presence of HIV)~~).

4 **Sec. 19.** RCW 49.60.172 and 2003 c 273 s 2 are each amended to  
5 read as follows:

6 (1) No person may require an individual to take an HIV (~~(test, as~~  
7 ~~defined in chapter 70.24 RCW,~~) or hepatitis C test, as a condition  
8 of hiring, promotion, or continued employment unless the absence of  
9 HIV or hepatitis C infection is a bona fide occupational  
10 qualification for the job in question.

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

20 (3) The absence of HIV or hepatitis C infection as a bona fide  
21 occupational qualification exists when performance of a particular  
22 job can be shown to present a significant risk, as defined by the  
23 board of health by rule, of transmitting HIV or hepatitis C infection  
24 to other persons, and there exists no means of eliminating the risk  
25 by restructuring the job.

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

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

35 **Sec. 20.** RCW 43.150.050 and 1992 c 66 s 5 are each amended to  
36 read as follows:

37 The center, working in cooperation with individuals, local  
38 groups, and organizations throughout the state, may undertake any

1 program or activity for which funds are available which furthers the  
2 goals of this chapter. These programs and activities may include, but  
3 are not limited to:

4 (1) Providing information about programs, activities, and  
5 resources of value to volunteers and to organizations operating or  
6 planning volunteer or citizen service programs;

7 (2) Sponsoring recognition events for outstanding individuals and  
8 organizations;

9 (3) Facilitating the involvement of business, industry,  
10 government, and labor in community service and betterment;

11 (4) Organizing, or assisting in the organization of, training  
12 workshops and conferences;

13 (5) Publishing schedules of significant events, lists of  
14 published materials, accounts of successful programs and programming  
15 techniques, and other information concerning the field of  
16 volunteerism and citizen service, and distributing this information  
17 broadly;

18 (6) Reviewing the laws and rules of the state of Washington, and  
19 proposed changes therein, to determine their impact on the success of  
20 volunteer activities and programs, and recommending such changes as  
21 seem appropriate to ensure the achievement of the goals of this  
22 chapter;

23 (7) Seeking funding sources for enhancing, promoting, and  
24 supporting the ethic of service and facilitating or providing  
25 information to those organizations and agencies which may benefit;

26 (8) Providing information about agencies and individuals who are  
27 working to prevent the spread of the human immunodeficiency virus, as  
28 defined in chapter 70.24 RCW, and to agencies and individuals who are  
29 working to provide health and social services to persons living with  
30 (~~acquired immunodeficiency syndrome~~) the human immunodeficiency  
31 virus, as defined in chapter 70.24 RCW.

32 **Sec. 21.** RCW 74.39.005 and 1995 1st sp.s. c 18 s 10 are each  
33 amended to read as follows:

34 The purpose of this chapter is to:

35 (1) Establish a balanced range of health, social, and supportive  
36 services that deliver long-term care services to (~~chronically,~~  
37 ~~functionally disabled~~) persons with chronic functional disabilities  
38 of all ages;

1 (2) Ensure that functional ability shall be the determining  
2 factor in defining long-term care service needs and that these needs  
3 will be determined by a uniform system for comprehensively assessing  
4 functional disability;

5 (3) Ensure that services are provided in the most independent  
6 living situation consistent with individual needs;

7 (4) Ensure that long-term care service options shall be developed  
8 and made available that enable (~~(functionally disabled)~~) persons with  
9 functional disabilities to continue to live in their homes or other  
10 community residential facilities while in the care of their families  
11 or other volunteer support persons;

12 (5) Ensure that long-term care services are coordinated in a way  
13 that minimizes administrative cost, eliminates unnecessarily complex  
14 organization, minimizes program and service duplication, and  
15 maximizes the use of financial resources in directly meeting the  
16 needs of persons with functional limitations;

17 (6) Develop a systematic plan for the coordination, planning,  
18 budgeting, and administration of long-term care services now  
19 fragmented between the division of developmental disabilities,  
20 division of mental health, aging and adult services administration,  
21 division of children and family services, division of vocational  
22 rehabilitation, (~~(office on AIDS,)~~) division of health, (~~(and)~~)  
23 bureau of alcohol and substance abuse, and the department of health;

24 (7) Encourage the development of a statewide long-term care case  
25 management system that effectively coordinates the plan of care and  
26 services provided to eligible clients;

27 (8) Ensure that individuals and organizations affected by or  
28 interested in long-term care programs have an opportunity to  
29 participate in identification of needs and priorities, policy  
30 development, planning, and development, implementation, and  
31 monitoring of state supported long-term care programs;

32 (9) Support educational institutions in Washington state to  
33 assist in the procurement of federal support for expanded research  
34 and training in long-term care; and

35 (10) Facilitate the development of a coordinated system of long-  
36 term care education that is clearly articulated between all levels of  
37 higher education and reflective of both in-home care needs and  
38 institutional care needs of (~~(functionally disabled)~~) persons with  
39 functional disabilities.

1        NEW SECTION.    **Sec. 22.**    The following acts or parts of acts are  
2 each repealed:

3        (1)    RCW 70.24.095 (Pregnant women—Drug treatment program  
4 participants—AIDS counseling) and 1988 c 206 s 705;

5        (2)    RCW 70.24.100 (Syphilis laboratory tests) and 1991 c 3 s 323,  
6 1979 c 141 s 95, & 1939 c 165 s 2;

7        (3)    RCW 70.24.107 (Rule-making authority—1997 c 345) and 1999 c  
8 372 s 14 & 1997 c 345 s 6;

9        (4)    RCW 70.24.125 (Reporting requirements for sexually  
10 transmitted diseases—Rules) and 1988 c 206 s 905;

11       (5)    RCW 70.24.140 (Certain infected persons—Sexual intercourse  
12 unlawful without notification) and 1988 c 206 s 917;

13       (6)    RCW 70.24.200 (Information for the general public on sexually  
14 transmitted diseases—Emphasis) and 1988 c 206 s 201;

15       (7)    RCW 70.24.210 (Information for children on sexually  
16 transmitted diseases—Emphasis) and 1988 c 206 s 202;

17       (8)    RCW 70.24.240 (Clearinghouse for AIDS educational materials)  
18 and 1988 c 206 s 601;

19       (9)    RCW 70.24.250 (Office on AIDS—Repository and clearinghouse  
20 for AIDS education and training material—University of Washington  
21 duties) and 1988 c 206 s 602;

22       (10)   RCW 70.24.260 (Emergency medical personnel—Rules for AIDS  
23 education and training) and 1988 c 206 s 603;

24       (11)   RCW 70.24.270 (Health professionals—Rules for AIDS education  
25 and training) and 1988 c 206 s 604;

26       (12)   RCW 70.24.280 (Pharmacy quality assurance commission—Rules  
27 for AIDS education and training) and 2013 c 19 s 122 & 1988 c 206 s  
28 605;

29       (13)   RCW 70.24.300 (State and local government employees—  
30 Determination of substantial likelihood of exposure—Rules for AIDS  
31 education and training) and 1993 c 281 s 60 & 1988 c 206 s 607;

32       (14)   RCW 70.24.310 (Health care facility employees—Rules for AIDS  
33 education and training) and 1988 c 206 s 608;

34       (15)   RCW 70.24.320 (Counseling and testing—AIDS and HIV—  
35 Definitions) and 1988 c 206 s 701;

36       (16)   RCW 70.24.350 (Prostitution and drug offenses—Voluntary  
37 testing and counseling) and 1988 c 206 s 704;

38       (17)   RCW 70.24.380 (Board of health—Rules for counseling and  
39 testing) and 1988 c 206 s 709; and

1 (18) RCW 70.24.410 (AIDS advisory committee—Duties, review of  
2 insurance problems—Termination) and 1991 c 3 s 328 & 1988 c 206 s  
3 803.

4 NEW SECTION. **Sec. 23.** If any provision of this act or its  
5 application to any person or circumstance is held invalid, the  
6 remainder of the act or the application of the provision to other  
7 persons or circumstances is not affected."

8 Correct the title.

EFFECT: 1. Modifies the definition of "health order."

2. Requires the educational and training materials the Superintendent of Public Instruction must develop for education on blood-borne pathogens, to be created in consultation with the Department of Health.

3. Restores current law providing that the Department of Health is responsible establishing criteria for and distributing funds and grants to support services for people who have HIV and may authorize the use of appropriate materials in the prevention or control of HIV infection.

4. Removes changes to provisions that expanded protections for test results of voluntary and anonymous testing for blood-borne pathogens restoring current law to cover only HIV.

5. Makes a variety of nonsubstantive, technical changes such as reordering words and removing duplicative language.

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