
ENGROSSED SUBSTITUTE HOUSE BILL 1551

State of Washington

66th Legislature

2019 Regular Session

By House Health Care & Wellness (originally sponsored by Representatives Jenkins, Cody, Stonier, Fey, Appleton, and Pollet; by request of Department of Health)

READ FIRST TIME 02/22/19.

1 AN ACT Relating to modernizing the control of certain
2 communicable diseases; amending RCW 70.24.015, 70.24.017, 70.24.024,
3 70.24.080, 70.24.110, 70.24.120, 70.24.130, 70.24.220, 70.24.290,
4 70.24.325, 70.24.340, 70.24.360, 70.24.370, 9A.36.011, 18.35.040,
5 49.44.180, 49.60.172, 43.150.050, and 74.39.005; adding new sections
6 to chapter 70.24 RCW; repealing RCW 70.24.095, 70.24.100, 70.24.107,
7 70.24.125, 70.24.140, 70.24.200, 70.24.210, 70.24.240, 70.24.250,
8 70.24.260, 70.24.270, 70.24.280, 70.24.300, 70.24.310, 70.24.320,
9 70.24.350, 70.24.380, and 70.24.410; and prescribing penalties.

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

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

13 The legislature declares that sexually transmitted diseases and
14 blood-borne pathogens constitute a serious and sometimes fatal threat
15 to the public and individual health and welfare of the people of the
16 state. The legislature finds that the incidence of sexually
17 transmitted diseases and blood-borne pathogens is rising at an
18 alarming rate and that these diseases result in significant social,
19 health, and economic costs, including infant and maternal mortality,
20 temporary and lifelong disability, and premature death. The
21 legislature further finds that sexually transmitted diseases and

1 blood-borne pathogens, by their nature, involve sensitive issues of
2 privacy, and it is the intent of the legislature that all programs
3 designed to deal with these diseases afford patients privacy,
4 confidentiality, and dignity. The legislature also finds that medical
5 knowledge and information about sexually transmitted diseases and
6 blood-borne pathogens are rapidly changing. It is therefore the
7 intent of the legislature to provide a program that is sufficiently
8 flexible to meet emerging needs, deals efficiently and effectively
9 with reducing the incidence of sexually transmitted diseases and
10 blood-borne pathogens, and provides patients with a secure knowledge
11 that information they provide will remain private and confidential.

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

14 Unless the context clearly requires otherwise, the definitions in
15 this section apply throughout this chapter:

16 (1) (~~("Acquired immunodeficiency syndrome" or "AIDS" means the~~
17 ~~clinical syndrome of HIV-related illness as defined by the board of~~
18 ~~health by rule.)~~) "Blood-borne pathogen" means a pathogenic
19 microorganism that is present in human blood and can cause disease in
20 humans, including hepatitis B virus, hepatitis C virus, and human
21 immunodeficiency virus, as well as any other pathogen specified by
22 the board in rule.

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

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

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

30 (5) "Health care facility" means a hospital, nursing home,
31 neuropsychiatric or mental health facility, home health agency,
32 hospice, child care agency, group care facility, family foster home,
33 clinic, blood bank, blood center, sperm bank, laboratory, or other
34 social service or health care institution regulated or operated by
35 the department of health.

36 (6) (~~("HIV-related condition" means any medical condition~~
37 ~~resulting from infection with HIV including, but not limited to,~~
38 ~~seropositivity for HIV.)~~) "Health order" means a written directive
39 issued by the state or local health officer that requires the

1 recipient to take specific action to remove, reduce, control or
2 prevent a risk to public health.

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

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

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

12 (10) "Local (~~(public)~~) health officer" (~~(means the officer~~
13 ~~directing the county health department or his or her designee who has~~
14 ~~been given the responsibility and authority to protect the health of~~
15 ~~the public within his or her jurisdiction)~~) has the same meaning as
16 in RCW 70.05.010.

17 (11) "Medical treatment" includes treatment for curable diseases
18 and treatment that causes a person to be unable to transmit a disease
19 to others, based upon generally accepted standards of medical and
20 public health science, as specified by the board in rule.

21 (12) "Person" includes any natural person, partnership,
22 association, joint venture, trust, public or private corporation, or
23 health facility.

24 (~~(12) "Release of test results" means a written authorization~~
25 ~~for disclosure of any sexually transmitted disease test result which~~
26 ~~is signed, dated, and which specifies to whom disclosure is~~
27 ~~authorized and the time period during which the release is to be~~
28 ~~effective.)~~)

29 (13) "Sexually transmitted disease" means a bacterial, viral,
30 fungal, or parasitic (~~(disease)~~) infection, determined by the board
31 by rule to be sexually transmitted, to be a threat to the public
32 health and welfare, and to be (~~(a disease)~~) an infection for which a
33 legitimate public interest will be served by providing for regulation
34 and treatment. The board shall designate chancroid, gonorrhea,
35 granuloma inguinale, lymphogranuloma venereum, genital herpes
36 simplex, chlamydia, (~~(nongonococcal urethritis (NGU),~~) trachomitis,
37 genital human papilloma virus infection, syphilis, (~~(acquired~~
38 ~~immunodeficiency syndrome (AIDS),~~) and human immunodeficiency virus
39 (HIV) infection as sexually transmitted diseases, and shall consider
40 the recommendations and classifications of the centers for disease

1 control and other nationally recognized medical authorities in
2 designating other diseases as sexually transmitted.

3 (14) "State ((public)) health officer" means the secretary of
4 health or an officer appointed by the secretary.

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

7 (1) Subject to the provisions of this chapter, the state and
8 local ((public)) health officers or their authorized representatives
9 may examine and counsel ((or cause to be examined and counseled))
10 persons reasonably believed to be infected with or to have been
11 exposed to a sexually transmitted disease.

12 (2) ~~((Orders or restrictive measures directed to persons with a
13 sexually transmitted disease shall be used as the last resort when
14 other measures to protect the public health have failed, including
15 reasonable efforts, which shall be documented, to obtain the
16 voluntary cooperation of the person who may be subject to such an
17 order. The orders and measures shall be applied serially with the
18 least intrusive measures used first. The burden of proof shall be on
19 the state or local public health officer to show that specified
20 grounds exist for the issuance of the orders or restrictive measures
21 and that the terms and conditions imposed are no more restrictive
22 than necessary to protect the public health.~~

23 ~~(3) When the state or local public health officer within his or
24 her respective jurisdiction knows or has reason to believe, because
25 of direct medical knowledge or reliable testimony of others in a
26 position to have direct knowledge of a person's behavior, that a
27 person has a sexually transmitted disease and is engaging in
28 specified conduct, as determined by the board by rule based upon
29 generally accepted standards of medical and public health science,
30 that endangers the public health, he or she shall conduct an
31 investigation in accordance with procedures prescribed by the board
32 to evaluate the specific facts alleged, if any, and the reliability
33 and credibility of the person or persons providing such information
34 and, if satisfied that the allegations are true, he or she may issue
35 an order according to the following priority to:~~

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

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

4 (ii) The basis for the health officer's investigation is the
5 officer's direct medical knowledge or reliable testimony of another
6 who is in a position to have direct knowledge of the person's
7 behavior.

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

12 (3) If the state or local health officer determines upon
13 conclusion of the investigation that the allegations are true and
14 that the person continues to engage in behavior that endangers the
15 public health, the health officer shall document measures taken to
16 protect the public health, including reasonable efforts to obtain the
17 person's voluntary cooperation.

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

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

25 ~~(b) Order a person to~~)). If ordering a person to receive medical
26 treatment, the health officer must provide the person with at least
27 one additional appropriate option to choose from in the health order;
28 or

29 (ii) Immediately cease and desist from specified ((conduct
30 which)) behavior that endangers the public health ((of others)) by
31 imposing such restrictions upon the person as are necessary to
32 prevent the specified ((conduct)) behavior that endangers the public
33 health ((of others only if the public health officer has determined
34 that clear and convincing evidence exists to believe that such person
35 has been ordered to report for counseling as provided in (a) of this
36 subsection and continues to demonstrate behavior which endangers the
37 health of others)).

38 (b) Any restriction shall be in writing, setting forth the name
39 of the person to be restricted ((and)), the initial period of time((, not
40 to exceed three months,)) during which the health order shall

1 remain effective, the terms of the restrictions, and such other
2 conditions as may be necessary to protect the public health.
3 Restrictions shall be imposed in the least-restrictive manner
4 necessary to protect the public health. The period of time during
5 which the health order is effective must be reasonably related to the
6 purpose of the restriction or restrictions contained in the order, up
7 to a maximum period of twelve months.

8 ~~((4))~~ (5)(a) Upon the issuance of ~~((any))~~ a health order ~~((by~~
9 ~~the state or local public health officer or an authorized~~
10 ~~representative))~~ pursuant to subsection ~~((3))~~ (4) of this section
11 ~~((or RCW 70.24.340(4), such public)),~~ the state or local health
12 officer shall give written notice promptly, personally, and
13 confidentially to the person who is the subject of the order stating
14 the grounds and provisions of the order, including the factual bases
15 therefor, the evidence relied upon for proof of infection and
16 dangerous behavior, and the likelihood of repetition of such
17 behaviors in the absence of such an order~~((, and notifying))~~. The
18 written notice must inform the person who is the subject of the order
19 that, if he or she contests the order, he or she may file an appeal
20 and appear at a judicial hearing on the enforceability of the order,
21 to be held in superior court. ~~((He or she may have an attorney appear~~
22 ~~on his or her behalf in the hearing at public expense, if~~
23 ~~necessary.))~~ The hearing shall be held within seventy-two hours of
24 receipt of the notice, unless the person subject to the order agrees
25 to comply. If the person contests the order, no invasive medical
26 procedures shall be carried out prior to a hearing being held
27 pursuant to this subsection. ~~((If the person does not contest the~~
28 ~~order within seventy-two hours of receiving it, and the person does~~
29 ~~not comply with the order within the time period specified for~~
30 ~~compliance with the order, the state or local public health officer~~
31 ~~may request a warrant be issued by the superior court to insure~~
32 ~~appearance at the hearing. The hearing shall be within seventy-two~~
33 ~~hours of the expiration date of the time specified for compliance~~
34 ~~with the original order.))~~

35 (b) The health officer may apply to the superior court for a
36 court order requiring the person to comply with the health order if
37 the person fails to comply with the health order within the time
38 period specified.

39 (c) At a hearing held pursuant to (a) or (b) of this subsection
40 (5), the person subject to the health order may have an attorney

1 appear on his or her behalf at public expense, if necessary. The
2 burden of proof shall be on the ((public)) health officer to show by
3 clear and convincing evidence that the specified grounds exist for
4 the issuance of the order and for the need for compliance and that
5 the terms and conditions imposed therein are no more restrictive than
6 necessary to protect the public health. Upon conclusion of the
7 hearing, the court shall issue appropriate orders affirming,
8 modifying, or dismissing the health order.

9 ((~~(b)~~)) (d) If the superior court dismisses the health order ((~~of~~
10 ~~the public health officer~~)), the fact that the order was issued shall
11 be expunged from the records of the department or local department of
12 health.

13 ((~~(5)~~ Any hearing conducted pursuant to this section shall be
14 closed and confidential unless a public hearing is requested by the
15 person who is the subject of the order, in which case the hearing
16 will be conducted in open court. Unless in open hearing, any
17 transcripts or records relating thereto shall also be confidential
18 and may be sealed by the order of the court.))

19 NEW SECTION. Sec. 4. A new section is added to chapter 70.24
20 RCW to read as follows:

21 A person who violates or fails to comply with a health order
22 issued under RCW 70.24.024 is guilty of a gross misdemeanor
23 punishable by confinement until the order has been complied with or
24 terminated, up to a maximum period of three hundred sixty-four days.
25 In lieu of confinement, the court may place the defendant on
26 probation upon condition that the defendant comply with the health
27 order, up to the length of the health order. If the defendant is
28 placed on probation and subsequently violates or fails to comply with
29 the health order, the court shall revoke the probation and reinstate
30 the original sentence of confinement.

31 NEW SECTION. Sec. 5. A new section is added to chapter 70.24
32 RCW to read as follows:

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

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

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

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

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

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

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

8 (3) (a) Except as provided in (b) of this subsection, violation of
9 this section is a misdemeanor punishable as provided in RCW
10 9A.20.021.

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

14 (c) Violation of this section does not require registration under
15 RCW 9A.44.130, unless the partner is a child or vulnerable adult
16 victim.

17 (4) For purposes of this section, the following terms have the
18 following meanings:

19 (a) "Practical means to prevent transmission" means good faith
20 employment of an activity, behavior, method, or device that is
21 scientifically demonstrated to measurably reduce the risk of
22 transmitting a sexually transmitted disease, including but not
23 limited to: The use of a condom, barrier protection, or other
24 prophylactic device; or good faith participation in a treatment
25 regimen prescribed by a health care provider or public health
26 professional.

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

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

33 Except as provided in sections 4 and 5 of this act, any person
34 who (~~shall~~) violates any of the provisions of this chapter or any
35 (~~lawful~~) rule adopted by the board (~~pursuant to the authority~~
36 ~~herein granted~~) under this chapter, or who (~~shall~~) fails or
37 refuses to obey any lawful order issued by any state, county or
38 municipal (~~public~~) health officer (~~, pursuant to the authority~~

1 ~~granted in~~) under this chapter(~~(7)~~) shall be deemed guilty of a
2 gross misdemeanor punishable as provided under RCW 9A.20.021.

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

5 A minor fourteen years of age or older who may have come in
6 contact with any sexually transmitted disease or suspected sexually
7 transmitted disease may give consent to the furnishing of hospital,
8 medical, and surgical care related to the diagnosis or treatment of
9 such disease; and treatment to avoid HIV infection. Such consent
10 shall not be subject to disaffirmance because of minority. The
11 consent of the parent, parents, or legal guardian of such minor shall
12 not be necessary to authorize hospital, medical, and surgical care
13 related to such disease, and such parent, parents, or legal guardian
14 shall not be liable for payment for any care rendered pursuant to
15 this section.

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

18 (~~(Sexually transmitted)~~) (1) Disease case investigators, upon
19 specific authorization from a physician or by a physician's standing
20 order, are hereby authorized to (~~(perform)~~) gather specimens,
21 including through performance of venipuncture or (~~(skin)~~) fingerstick
22 puncture (~~(on)~~), from a person for the sole purpose of (~~(withdrawing~~
23 blood)) obtaining specimens for use in (~~(sexually transmitted disease~~
24 ~~tests))~~ testing for sexually transmitted diseases, blood-borne
25 pathogens, and other infections as defined by board rule.

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

28 (a) "Disease case investigator" (~~(shall)~~) means only those
29 persons who:

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

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

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

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

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

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

9 (a) Establishing procedures for taking appropriate action, in
10 addition to any other penalty under this chapter, with regard to
11 health care facilities or health care providers ~~((which))~~ that
12 violate this chapter or the rules adopted under this chapter~~((~~The~~~~
13 ~~rules shall prescribe))~~;

14 (b) Prescribing stringent safeguards to protect the
15 confidentiality of the persons and records subject to this chapter,
16 consistent with chapter 70.02 RCW;

17 (c) Establishing reporting requirements for sexually transmitted
18 diseases;

19 (d) Establishing procedures for investigations under RCW
20 70.24.024;

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

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

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

30 (h) Defining, for purposes of RCW 70.24.340, 70.24.360, and
31 70.24.370, what constitutes an exposure that presents a possible risk
32 of transmission of a blood-borne pathogen.

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

35 (3) The procedures set forth in chapter 34.05 RCW apply to the
36 administration of this chapter, except that in case of conflict
37 between chapter 34.05 RCW and this chapter, the provisions of this
38 chapter shall control.

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

3 The legislature finds that the public schools provide a unique
4 and appropriate setting for educating young people about the
5 pathology and prevention of (~~acquired immunodeficiency syndrome~~
6 ~~(AIDS)~~) sexually transmitted diseases. The legislature recognizes
7 that schools and communities vary throughout the state and that
8 locally elected school directors should have a significant role in
9 establishing a program of (~~(AIDS)~~) sexually transmitted disease
10 education in their districts, consistent with RCW 28A.230.020 and
11 28A.300.475.

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

14 The superintendent of public instruction shall adopt rules that
15 require appropriate education and training, to be included as part of
16 their present continuing education requirements, for public school
17 employees on the prevention, transmission, and treatment of (~~(AIDS)~~)
18 blood-borne pathogens. The superintendent of public instruction, in
19 consultation with the department of health, shall (~~(work with the~~
20 ~~office on AIDS under RCW 70.24.250 to)~~) develop the educational and
21 training material necessary for school employees.

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

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

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

33 (a) Provide written information to the individual prior to being
34 tested which explains (~~(-~~

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

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

1 ~~(iii))~~ which blood-borne pathogen test is being administered;
2 and that the purpose of ((HIV)) blood-borne pathogen testing in this
3 setting is to determine eligibility for coverage((+

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

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

6 (b) Obtain informed specific written consent for ~~((an HIV test))~~
7 the blood-borne pathogen test or tests. The written informed consent
8 shall include(~~(+~~

9 ~~(i))~~ an explanation of the confidential treatment of the test
10 results which limits access to the results to persons involved in
11 handling or determining applications for coverage or claims of the
12 applicant or claimant ((and to those persons designated under
13 ~~(e)(iii) of this subsection; and~~

14 ~~(ii) Requirements under (c)(iii) of this subsection))~~.

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

16 (i) ~~((That post-test counseling, as specified under WAC~~
17 ~~248-100-209(4), is required if an HIV test is positive or~~
18 ~~indeterminate;~~

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

21 ~~(iii))~~ That the applicant may designate a health care provider
22 or health care agency to whom the insurer, the health care service
23 contractor, or health maintenance organization will provide
24 ~~((positive or indeterminate))~~ test results indicative of infection
25 with a blood-borne pathogen for interpretation ~~((and post-test~~
26 ~~counseling. When an applicant does not identify a designated health~~
27 ~~care provider or health care agency and the applicant's test results~~
28 ~~are either positive or indeterminate, the insurer, the health care~~
29 ~~service contractor, or health maintenance organization shall provide~~
30 ~~the test results to the local health department for interpretation~~
31 ~~and post-test counseling)); and~~

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

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

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

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

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

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

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

9 ~~(3) This section applies only to offenses committed after March~~
10 ~~23, 1988.~~

11 ~~(4))~~ A law enforcement officer, firefighter, health care
12 provider, health care facility staff person, department of
13 corrections' staff person, jail staff person, or person employed in
14 other categories of employment (~~determined by the board in rule~~) to
15 be at risk of (~~substantial~~) exposure (~~to HIV~~) that presents a
16 possible risk of transmission of a blood-borne pathogen, who has
17 experienced (~~a substantial~~) an exposure to another person's bodily
18 fluids in the course of his or her employment, may request a state or
19 local (~~public~~) health officer to order (~~pretest counseling, HIV~~
20 ~~testing, and posttest counseling~~) blood-borne pathogen testing for
21 the person whose bodily fluids he or she has been exposed to. (~~A~~
22 ~~person eligible to request a state or local health official to order~~
23 ~~HIV testing under this chapter and board rule may also request a~~
24 ~~state or local health officer to order testing for other blood-borne~~
25 ~~pathogens.~~) If the state or local (~~public~~) health officer refuses
26 to order (~~counseling and~~) testing under this (~~sub~~)section, the
27 person who made the request may petition the superior court for a
28 hearing to determine whether an order shall be issued. The hearing on
29 the petition shall be held within seventy-two hours of filing the
30 petition, exclusive of Saturdays, Sundays, and holidays. The standard
31 of review to determine whether the (~~public~~) state or local health
32 officer shall be required to issue the order is whether
33 (~~substantial~~) an exposure occurred and whether that exposure
34 presents a possible risk of transmission of (~~the HIV virus as~~
35 ~~defined by the board by rule~~) a blood-borne pathogen. Upon
36 conclusion of the hearing, the court shall issue the appropriate
37 order (~~, which may require additional testing for other blood-borne~~
38 ~~pathogens~~).

39 The person who is subject to the state or local (~~public~~) health
40 officer's order to receive (~~counseling and~~) testing shall be given

1 written notice of the order promptly, personally, and confidentially,
2 stating the grounds and provisions of the order, including the
3 factual basis therefor. If the person who is subject to the order
4 refuses to comply, the state or local (~~public~~) health officer may
5 petition the superior court for a hearing. The hearing on the
6 petition shall be held within seventy-two hours of filing the
7 petition, exclusive of Saturdays, Sundays, and holidays. The standard
8 of review for the order is whether (~~substantial~~) an exposure
9 occurred and whether that exposure presents a possible risk of
10 transmission of (~~the HIV virus as defined by the board by rule~~) a
11 blood-borne pathogen. Upon conclusion of the hearing, the court shall
12 issue the appropriate order.

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

19 The (~~counseling and~~) testing required under this (~~sub~~)section
20 shall be completed as soon as possible after the substantial exposure
21 or (~~after an order is issued by a court, but shall begin not later~~
22 ~~than~~), if ordered by the court, within seventy-two hours (~~after the~~
23 ~~substantial exposure or an order is issued by the court~~) of the
24 order's issuance.

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

27 Jail administrators, with the approval of the local (~~public~~)
28 health officer, may order (~~pretest counseling, HIV testing, and~~
29 ~~posttest counseling for persons~~) blood-borne pathogen testing for a
30 person detained in the jail if the local (~~public~~) health officer
31 determines that (~~actual or threatened~~) the detainee's behavior
32 (~~presents a possible risk to~~) exposed the staff, general public, or
33 other persons, and that exposure presents a possible risk of
34 transmitting a blood-borne pathogen. (~~Approval of the local public~~
35 ~~health officer shall be based on RCW 70.24.024(3) and may be~~
36 ~~contested through RCW 70.24.024(4). The administrator shall~~
37 ~~establish, pursuant to RCW 70.48.071, a procedure to document the~~
38 ~~possible risk which is the basis for the HIV testing. "Possible~~
39 ~~risk," as used in this section, shall be defined by the board in~~

1 ~~rule.)~~) Documentation of the behavior (~~(, or threat thereof,)~~) shall
2 be reviewed with the person to (~~(try to assure)~~) ensure that the
3 person understands the basis for testing.

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

6 (1) (~~Department of corrections facility administrators may order~~
7 ~~pretest counseling, HIV testing, and posttest counseling for inmates~~
8 ~~if the secretary of corrections or the secretary's designee~~
9 ~~determines that actual or threatened~~) The chief medical officer of
10 the department of corrections may order blood-borne pathogen testing
11 for an inmate if the chief medical officer or his or her designee
12 determines that the inmate's behavior ((presents a possible risk to))
13 exposed the staff, general public, or other inmates, and that
14 exposure presents a possible risk of transmitting a blood-borne
15 pathogen. The department of corrections shall establish a procedure
16 to document the exposure that presents a possible risk of
17 transmitting a blood-borne pathogen which is the basis for the
18 ((HIV)) testing. (~~("Possible risk," as used in this section, shall be~~
19 ~~defined by the department of corrections after consultation with the~~
20 ~~board. Possible risk, as used in the documentation of the behavior,~~
21 ~~or threat thereof, shall be reviewed with the inmate.)) The chief
22 medical officer, or his or her designee, shall review the exposure
23 that presents a possible risk of transmitting a blood-borne pathogen
24 in the documentation of the behavior with the inmate to ensure that
25 he or she understands the basis for the testing.~~

26 (2) (~~Department of corrections administrators and~~
27 ~~superintendents who are authorized to make decisions about testing~~
28 ~~and dissemination of test information shall, at least annually,~~
29 ~~participate in training seminars on public health considerations~~
30 ~~conducted by the assistant secretary for public health or her or his~~
31 ~~designee.~~

32 ~~(3))~~) Administrative hearing requirements set forth in chapter
33 34.05 RCW do not apply to the procedure developed by the department
34 of corrections pursuant to this section. This section shall not be
35 construed as requiring any hearing process except as may be required
36 under existing federal constitutional law.

37 (~~(4) RCW 70.24.340 does not apply to the department of~~
38 ~~corrections or to inmates in its custody or subject to its~~
39 ~~jurisdiction.))~~

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

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

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

7 (b) Transmits HIV to a child or vulnerable adult; or

8 (c) Administers, exposes, or transmits to or causes to be taken
9 by another, poison((, ~~the human immunodeficiency virus as defined in~~
10 ~~chapter 70.24 RCW,))~~ or any other destructive or noxious substance;
11 or

12 ((~~e~~)) (d) Assaults another and inflicts great bodily harm.

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

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

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

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

24 (ii) Satisfactorily completes:

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

27 (B) A two-year or four-year degree in a field of study approved
28 by the board from an accredited institution, a nine-month
29 board-approved certificate program offered by a board-approved
30 hearing aid specialist program, and the practical examination
31 approved by the board. The practical examination must be given at
32 least quarterly, as determined by the board. The department may hire
33 licensed industry experts approved by the board to proctor the
34 examination; or

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

1 (c) (i) Holds a current, unsuspended, unrevoked license from
2 another jurisdiction, has been actively practicing as a licensed
3 hearing aid specialist in another jurisdiction for at least forty-
4 eight of the last sixty months, and submits proof of completion of
5 advance certification from either the international hearing society
6 or the national board for certification in hearing instrument
7 sciences; and

8 (ii) Satisfactorily completes the hearing aid specialist
9 examination required by this chapter or a substantially equivalent
10 examination approved by the board.

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

15 (2) (a) An applicant for licensure as a speech-language
16 pathologist or audiologist must have the following minimum
17 qualifications:

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

20 (ii) Has a master's degree or the equivalent, or a doctorate
21 degree or the equivalent, from a program at a board-approved
22 institution of higher learning, which includes completion of a
23 supervised clinical practicum experience as defined by rules adopted
24 by the board; and

25 (iii) Has completed postgraduate professional work experience
26 approved by the board.

27 (b) All qualified applicants must satisfactorily complete the
28 speech-language pathology or audiology examinations required by this
29 chapter.

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

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

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

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

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

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

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

11 It shall be unlawful for any person, firm, corporation, or the
12 state of Washington, its political subdivisions, or municipal
13 corporations to require, directly or indirectly, that any employee or
14 prospective employee submit genetic information or submit to
15 screening for genetic information as a condition of employment or
16 continued employment.

17 "Genetic information" for purposes of this chapter, is
18 information about inherited characteristics that can be derived from
19 a DNA-based or other laboratory test, family history, or medical
20 examination. "Genetic information" for purposes of this chapter, does
21 not include: (1) Routine physical measurements, including chemical,
22 blood, and urine analysis, unless conducted purposefully to diagnose
23 genetic or inherited characteristics; and (2) results from tests for
24 abuse of alcohol or drugs (~~, or for the presence of HIV~~).

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

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

32 (2) No person may discharge or fail or refuse to hire any
33 individual, or segregate or classify any individual in any way which
34 would deprive or tend to deprive that individual of employment
35 opportunities or adversely affect his or her status as an employee,
36 or otherwise discriminate against any individual with respect to
37 compensation, terms, conditions, or privileges of employment on the
38 basis of the results of an HIV test or hepatitis C test unless the

1 absence of HIV or hepatitis C infection is a bona fide occupational
2 qualification of the job in question.

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

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

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

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

20 The center, working in cooperation with individuals, local
21 groups, and organizations throughout the state, may undertake any
22 program or activity for which funds are available which furthers the
23 goals of this chapter. These programs and activities may include, but
24 are not limited to:

25 (1) Providing information about programs, activities, and
26 resources of value to volunteers and to organizations operating or
27 planning volunteer or citizen service programs;

28 (2) Sponsoring recognition events for outstanding individuals and
29 organizations;

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

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

34 (5) Publishing schedules of significant events, lists of
35 published materials, accounts of successful programs and programming
36 techniques, and other information concerning the field of
37 volunteerism and citizen service, and distributing this information
38 broadly;

1 (6) Reviewing the laws and rules of the state of Washington, and
2 proposed changes therein, to determine their impact on the success of
3 volunteer activities and programs, and recommending such changes as
4 seem appropriate to ensure the achievement of the goals of this
5 chapter;

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

9 (8) Providing information about agencies and individuals who are
10 working to prevent the spread of the human immunodeficiency virus, as
11 defined in chapter 70.24 RCW, and to agencies and individuals who are
12 working to provide health and social services to persons living with
13 (~~acquired immunodeficiency syndrome~~) the human immunodeficiency
14 virus, as defined in chapter 70.24 RCW.

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

17 The purpose of this chapter is to:

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

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

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

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

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

38 (6) Develop a systematic plan for the coordination, planning,
39 budgeting, and administration of long-term care services now

1 fragmented between the division of developmental disabilities,
2 division of mental health, aging and adult services administration,
3 division of children and family services, division of vocational
4 rehabilitation, (~~office on AIDS,~~) division of health, (~~and~~)
5 bureau of alcohol and substance abuse, and the department of health;

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

9 (8) Ensure that individuals and organizations affected by or
10 interested in long-term care programs have an opportunity to
11 participate in identification of needs and priorities, policy
12 development, planning, and development, implementation, and
13 monitoring of state supported long-term care programs;

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

17 (10) Facilitate the development of a coordinated system of long-
18 term care education that is clearly articulated between all levels of
19 higher education and reflective of both in-home care needs and
20 institutional care needs of (~~functionally disabled~~) persons with
21 functional disabilities.

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

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

26 (2) RCW 70.24.100 (Syphilis laboratory tests) and 1991 c 3 s 323,
27 1979 c 141 s 95, & 1939 c 165 s 2;

28 (3) RCW 70.24.107 (Rule-making authority—1997 c 345) and 1999 c
29 372 s 14 & 1997 c 345 s 6;

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

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

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

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

- 1 (8) RCW 70.24.240 (Clearinghouse for AIDS educational materials)
2 and 1988 c 206 s 601;
- 3 (9) RCW 70.24.250 (Office on AIDS—Repository and clearinghouse
4 for AIDS education and training material—University of Washington
5 duties) and 1988 c 206 s 602;
- 6 (10) RCW 70.24.260 (Emergency medical personnel—Rules for AIDS
7 education and training) and 1988 c 206 s 603;
- 8 (11) RCW 70.24.270 (Health professionals—Rules for AIDS education
9 and training) and 1988 c 206 s 604;
- 10 (12) RCW 70.24.280 (Pharmacy quality assurance commission—Rules
11 for AIDS education and training) and 2013 c 19 s 122 & 1988 c 206 s
12 605;
- 13 (13) RCW 70.24.300 (State and local government employees—
14 Determination of substantial likelihood of exposure—Rules for AIDS
15 education and training) and 1993 c 281 s 60 & 1988 c 206 s 607;
- 16 (14) RCW 70.24.310 (Health care facility employees—Rules for AIDS
17 education and training) and 1988 c 206 s 608;
- 18 (15) RCW 70.24.320 (Counseling and testing—AIDS and HIV—
19 Definitions) and 1988 c 206 s 701;
- 20 (16) RCW 70.24.350 (Prostitution and drug offenses—Voluntary
21 testing and counseling) and 1988 c 206 s 704;
- 22 (17) RCW 70.24.380 (Board of health—Rules for counseling and
23 testing) and 1988 c 206 s 709; and
- 24 (18) RCW 70.24.410 (AIDS advisory committee—Duties, review of
25 insurance problems—Termination) and 1991 c 3 s 328 & 1988 c 206 s
26 803.

27 NEW SECTION. **Sec. 23.** If any provision of this act or its
28 application to any person or circumstance is held invalid, the
29 remainder of the act or the application of the provision to other
30 persons or circumstances is not affected.

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