



**House  
Legislative  
Analysis  
Section**

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AIDS TRACKING

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House Bill 4103 (Substitute H-3)  
Sponsor: Rep. Thomas G. Power  
Committee: Public Health

Complete to 4-19-88

A SUMMARY OF HOUSE BILL 4103 (SUBSTITUTE H-3)

The bill would amend the Public Health Code to require individuals, health facilities, certain licensees under the code, and government entities (with the exception of the Department of Corrections and licensed clinical laboratories) to report anyone who tested positive for the presence of the Human Immunodeficiency Virus (HIV) -- the AIDS virus -- or for an antibody to HIV, within seven days after obtaining the test result. After receiving such a report the Department of Public Health (DPH) or a local health department would have fourteen days to contact the test subject for a voluntary interview, offer to contact his or her sexual partners and, where applicable, intravenous drug use partners. Under the bill, the report would contain the name, address and telephone number of the test subject, unless administered by a private physician or at a department designated testing site. Within 35 days of receiving the report, the DPH would privately, confidentially, and in a discreet manner, contact the test subject's sexual or intravenous drug use partners and inform them, without revealing the test subject identity, of the partner's possible exposure to AIDS, along with information on tests available for AIDS (or antibodies to HTLV-3) and how to avoid transmitting the virus. Should the test subject refuse to reveal his or her sexual and drug partners, the DPH would give the test subject information to distribute to his or her partners. The DPH would also be required to make a determination as to the probable validity as a sexual or hypodermic needle-sharing or drug-sharing partner of each individual named as such a contact, and the feasibility of contacting each individual. The DPH could elect not to attempt to contact an individual if it determined that the probability was very low, or zero, or that it was not feasible to contact the individual. If the test subject were determined to have been infected with HIV in utero, the department would attempt to interview his or her parent or legal guardian, or both.

Under the bill, tests for the presence of HIV or an antibody to HIV administered at DPH designated testing sites would be administered on an anonymous basis or under the condition that the test subject not be identified, unless the subject tested positive for the presence of HIV or the antibody to HIV, in which case DPH staff would proceed in the same manner as outlined above. Physicians who tested individuals in their private office for the presence of HIV, or an antibody to HIV, would maintain patient confidentiality but would be required to notify the test subject prior to testing that certain procedures would be taken if he or she tested positive. If the test were positive, the physician would notify the test subject, and then, within seven days, notify the local health department. The local health department would assign the subject a numerical code, and he or she would be have seven days to make an appointment with the department for an interview, after which the local health department would attempt to contact the subject's sexual and drug partners, as outlined above. Patient confidentiality would be maintained unless the subject did not make or keep the appointment for an interview with the local health department, in which case the physician would be required to immediately disclose the subject's name, address, and telephone

House Bill 4103 (4-19-88)

number.

Under the bill, validation requirements for tests for the presence of HIV or an antibody to HIV would be a double positive enzyme-linked immunosorbent assay (ELISA) test, combined with a positive western blot assay test. In addition, the department would accept as valid all HIV tests considered reliable for medical purposes by the federal Centers For Disease Control. The bill would also require all individuals or government entities that administered tests to provide test subjects with appropriate and relevant counseling regarding HIV testing and HIV infection, both before and after the test. The department could use data, reports, and records pertaining to information acquired through AIDS tests to conduct epidemiological and statistical studies, would be required to retain the information indefinitely, and would be required to promulgate rules pertaining to time periods for the retention and destruction of reports, data, and records containing the names of or identifying contacts. Until these rules were promulgated, the names of the contacts would be retained until the person was interviewed, or for a period of not less than one year, whichever came first.

Information acquired under the bill would be confidential.

A person who disclosed confidential information would be guilty of a felony, punishable by up to two years imprisonment, a fine of up to \$5,000, or both. A person who recklessly disclosed confidential information would be guilty of a misdemeanor, punishable by up to 180 days imprisonment, a fine of up to \$2,500, or both.

In addition to criminal penalties, a person who negligently disclosed confidential information would be civilly liable for damages caused by the disclosure. A person who willfully and wantonly disclosed confidential information would be liable for punitive damages and reasonable attorney fees. A person who intentionally or recklessly disclosed information would be civilly liable for damages and liable for punitive damages and reasonable attorney fees.

Information acquired by DPA under the bill would be exempt from disclosure under the Freedom of Information Act.

The department would be required to report annually to the House and Senate committees on public health on the effect of the bill to monitor and control the AIDS virus, including statistics on the number of contacts named by test subjects and the number of those contacts reached by the department.

The bill would take effect six months after its enactment.

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