

**B-Engrossed**  
**Senate Bill 1025**

Ordered by the House July 4  
Including Senate Amendments dated April 28 and House Amendments  
dated July 4

Sponsored by Senators MANNING JR, KNOPP, Representative BARKER, Senator PROZANSKI; Senators DEVLIN, HANSELL, STEINER HAYWARD, Representative NOBLE (at the request of Oregon Council of Police Associations, Oregon Association Chiefs of Police and Oregon State Sheriffs' Association)

**SUMMARY**

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

Creates process by which certain persons who practice profession related to enforcing or providing for public health and safety and who, in performance of official duties, come into contact with blood, bodily fluid or other potentially infectious material of another person may petition court for order compelling testing of other person for communicable disease.

Requires court to order testing upon showing that circumstances create probable cause to conclude that petitioner's contact with source person constitutes direct contact with blood, bodily fluids or other potentially infectious materials of person, and that contact is capable of transmitting communicable disease.

Takes effect on 91st day following adjournment sine die.

**A BILL FOR AN ACT**

1  
2 Relating to verifying transmission of disease; creating new provisions; repealing ORS 433.085; and  
3 prescribing an effective date.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1. (1) As used in this section:**

6 (a) "Communicable disease" has the meaning given that term in ORS 431A.005.

7 (b) "Good faith effort to obtain the voluntary consent of the source person" includes a  
8 good faith effort to locate or contact the source person.

9 (c) "Significant exposure" means direct contact with blood, bodily fluids or other poten-  
10 tially infectious materials of a person, and the contact is capable of transmitting a  
11 communicable disease.

12 (2) Notwithstanding any other provision of law, an employee of the Department of Cor-  
13 rections, a law enforcement officer as defined in ORS 414.805, a parole and probation officer  
14 as defined in ORS 181A.355, a corrections officer as defined in ORS 181A.355, an emergency  
15 medical services provider as defined in ORS 682.025, a licensed health care provider as defined  
16 in ORS 433.060 or a firefighter who, in the performance of the person's official duties, comes  
17 into contact with the blood, bodily fluid or other potentially infectious material of another  
18 person may petition the circuit court for an order compelling the testing of the source per-  
19 son for a communicable disease, provided that the person making the petition has first made  
20 a good faith effort to obtain the voluntary consent of the source person to be tested for a  
21 communicable disease.

22 (3) A petition submitted under this section must:

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted.  
New sections are in **boldfaced** type.

1 (a) Set forth the facts and circumstances of the contact with the source person and the  
2 reasons the petitioner and a medically trained person representing the petitioner, if avail-  
3 able, believe the contact with the source person constitutes significant exposure and that  
4 testing is appropriate;

5 (b) If a medically trained person is not available to represent the petitioner, include the  
6 reason for the unavailability;

7 (c) Include information sufficient to identify the source person and the location of the  
8 source person, if known; and

9 (d) Include a statement by the petitioner attesting to having made a good faith effort to  
10 obtain the voluntary consent of the source person to be tested for a communicable disease.

11 (4) The circuit court shall hold an ex parte hearing in person, by telephone or by other  
12 appropriate means no later than three judicial days after receiving a petition under this  
13 section. Upon a finding that the requirements of subsection (3) of this section have been  
14 met and a showing that the circumstances create probable cause to conclude that the  
15 petitioner's contact with the source person constitutes significant exposure, the court shall  
16 order the testing of the source person. The court shall issue the order no later than four  
17 judicial days after receiving a petition under this section.

18 (5) If the circuit court orders a test under subsection (4) of this section:

19 (a) The order shall direct the source person to allow a test to be performed by a licensed  
20 health care provider, without delay, for a communicable disease that may be transmitted by  
21 the type of contact that occurred and may specify the date by which the test must be com-  
22 pleted. If the source person is in custody or otherwise subject to the legal control of another  
23 person, the order may be directed to the agency with custody of, or the other person with  
24 legal control over, the source person. The order may direct the agency or other person to  
25 provide the source person with a copy of the order. The order may contain any directions  
26 necessary to ensure that the test is performed.

27 (b) The petitioner shall designate a physician or nurse practitioner to receive the results  
28 of the test on behalf of the petitioner.

29 (c) The order must inform the source person, or the agency with custody of or other  
30 person with legal control over the source person, of:

31 (A) The physician or nurse practitioner who is to receive the results of the test on behalf  
32 of the petitioner; and

33 (B) How to obtain payment for costs under subsection (8) of this section.

34 (d) The order must be served on the source person, or the agency with custody of or  
35 other person with legal control over the source person, in the manner directed by the court.  
36 The court may provide for service of the order by any means appropriate to the circum-  
37 stances of the source person, including directing the petitioner or the sheriff to serve the  
38 order. The costs associated with serving the order must be paid as provided under subsection  
39 (8) of this section.

40 (e) The order is enforceable through the contempt powers of the court.

41 (6) The results of a test ordered under this section:

42 (a) Are confidential and not subject to public disclosure under ORS 192.410 to 192.505; and

43 (b) May be made available only to the physician or nurse practitioner designated by the  
44 petitioner to receive the results of the test, the Oregon Health Authority and the source  
45 person.

1       **(7) Blood, bodily fluids or other potentially infectious materials taken from a source**  
2 **person for the purpose of performing a test under this section:**

3       **(a) May not be used for a civil or criminal investigation or as evidence in civil or criminal**  
4 **proceeding; and**

5       **(b) May be retained only as long as necessary to confirm the results of a test performed**  
6 **under this section.**

7       **(8) A charge or filing fee may not be imposed for the filing of a petition under this sec-**  
8 **tion. The cost of any testing ordered under this section shall be the responsibility of the**  
9 **employer of the petitioner.**

10       **SECTION 2.** **ORS 433.085 is repealed.**

11       **SECTION 3.** **The repeal of ORS 433.085 by section 2 of this 2017 Act applies to petitions**  
12 **filed on or after the effective date of this 2017 Act.**

13       **SECTION 4.** **This 2017 Act takes effect on the 91st day after the date on which the 2017**  
14 **regular session of the Seventy-ninth Legislative Assembly adjourns sine die.**

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