



Support HB 2719-1

- **Amends Oregon statute on access to HIV testing for crime victims consistent with current and best practice.**
- **Removes barrier to accessing certain Federal funding for crime victim services.**

The Problem:

Oregon is out of compliance with prompt testing notification requirements for eligibility for certain federal grant funding for services to victims of domestic violence and sexual assault.

Background:

Current Oregon law (ORS 135.139) addresses the circumstances, standards, and protocols regarding testing for HIV or other communicable diseases when it appears that the transmission of bodily fluids may have occurred during a crime. The provision of counseling and referral for appropriate health care and support services for victim and defendant regarding test results is addressed by OHA rule.

Since ORS 135.139 was last amended in 2014, best practices have largely evolved to ensure that victims in qualifying cases receive prompt testing and notification of test results. However, these protocols are not codified in statute.

Because the testing and notification timeline protocols are not codified in statute, Oregon is now out of compliance with Federal (34 U.S.C. 10461(d)) eligibility requirements for certain grant funding for services to victims of domestic violence, sexual assault, dating violence, and stalking. If states do not have testing timeline and notification protocols codified in statute, grantees are subject to a 5% reduction in funds available.

The Solution:

HB 2719-1 is brought forward for the purpose of amending Oregon statute to be consistent with federal grant eligibility regulations regarding prompt HIV testing and notification of testing results in eligible criminal cases. This change is in keeping with best practice and will remove the 5% penalty in federal funding sanction for important services for victims of domestic violence, sexual assault, dating violence, and stalking. The purpose of the bill is to amend current Oregon law consistent with 34 U.S.C. 10461(d) to provide that:

- 1. Testing for HIV must be done within 48 hours of information or indictment, when the offender is in custody or has been served with the information or indictment;**
- 2. Follow-up testing will be provided as medically appropriate; and**
- 3. As soon as practicable, notice of tests results will be given to the victim (or parent/guardian) and to the defendant.**

For more information, contact:

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Further Detail In Support of HB 2719-1

The current provisions of ORS 135.139 are insufficient for programs in Oregon that are seeking full federal funding for important projects focused on domestic/sexual violence and the criminal justice system.

Example: Clackamas County became aware of this issue after it was awarded a three-year grant through the *Office on Violence Against Women's Improving Criminal Justice Response to Domestic Violence, Sexual Assault, Dating Violence and Stalking* (ICJR) in 2019. This grant funded efforts at A Safe Place Family Justice Center that provided trauma-informed, wrap-around support for domestic violence survivors seeking protective orders.

Towards the end of the grant period in mid-2022, the project was informed that Oregon is out of compliance with **34 U.S.C. 10461(d)** and would lose 5% of the full grant award - \$37,463.

Clackamas County is aware of other communities in the state that are currently planning to apply for funding through ICJR; they will be held to this decrease in available funding. Clackamas County is also a current recipient of a ICJR 2022-2025 grant, so a fix to the rule would allow the project to access the full \$750,000 grant award.

Alterations to ORS 135.139 to meet the federal requirements would not alter the principles of the statute, and we do not believe that incorporating these best practices into statute would be challenging for local jurisdictions to implement.

34 U.S.C. 10461(d)

(d) SPEEDY NOTICE TO VICTIMS

A State or [unit of local government](#) shall not be entitled to 5 percent of the funds allocated under this subchapter unless the State or [unit of local government](#) –

(1) certifies that it has a law, policy, or regulation that requires -

(A) the State or [unit of local government](#) at the request of a victim to administer to a defendant, against whom an information or indictment is presented for a crime in which by force or threat of force the perpetrator compels the victim to engage in sexual activity, testing for the immunodeficiency virus (HIV) not later than 48 hours after the date on which the information or indictment is presented and the defendant is in custody or has been served with the information or indictment;

(B) as soon as practicable notification to the victim, or parent and guardian of the victim, and defendant of the testing results; and

(C) follow-up tests for HIV as may be medically appropriate, and that as soon as practicable after each such test the results be made available in accordance with subparagraph (B); or

(2) gives the [Attorney General](#) assurances that its laws and regulations will be in compliance with requirements of paragraph (1) within the later of -

(A) the period ending on the date on which the next session of the State legislature ends; or

(B) 2 years.

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