

1 SENATE BILL 311

2 **51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013**

3 INTRODUCED BY

4 Phil A. Griego

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10 AN ACT

11 RELATING TO HEALTH AND SAFETY; AMENDING THE HUMAN  
12 IMMUNODEFICIENCY VIRUS TEST ACT TO ALLOW THE DEPARTMENT OF  
13 HEALTH TO DISCLOSE HUMAN IMMUNODEFICIENCY VIRUS TEST RESULTS  
14 FOR THE PURPOSE OF CONDUCTING HUMAN IMMUNODEFICIENCY VIRUS  
15 SURVEILLANCE, INVESTIGATION AND INTERVENTION; DECLARING AN  
16 EMERGENCY.

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18 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

19 SECTION 1. Section 24-2B-4 NMSA 1978 (being Laws 1989,  
20 Chapter 227, Section 4) is amended to read:

21 "24-2B-4. MANDATORY COUNSELING.--No positive test result  
22 shall be revealed to the person upon whom the test was  
23 performed without [~~the person performing the test or the health~~  
24 ~~facility at which the test was performed~~] providing or  
25 referring that person for individual counseling about:

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underscored material = new  
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- 1           A. the meaning of the test results;
- 2           B. the possible need for additional testing;
- 3           C. the availability of appropriate health care
- 4 services, including mental health care, social and support
- 5 services; and
- 6           D. the benefits of locating and counseling any
- 7 individual by whom the infected person may have been exposed to
- 8 the human immunodeficiency virus and any individual whom the
- 9 infected person may have exposed to the human immunodeficiency
- 10 virus."

11           SECTION 2. Section 24-2B-6 NMSA 1978 (being Laws 1989,

12 Chapter 227, Section 6, as amended) is amended to read:

13           "24-2B-6. CONFIDENTIALITY.--

14           A. No person or the person's agents or employees

15 who require or administer the test shall disclose the identity

16 of any person upon whom a test is performed or the result of

17 such a test in a manner that permits identification of the

18 subject of the test, except to the following persons:

19                   (1) the subject of the test or the subject's

20 legally authorized representative, guardian or legal custodian;

21                   (2) any person designated in a legally

22 effective release of the test results executed prior to or

23 after the test by the subject of the test or the subject's

24 legally authorized representative;

25                   (3) an authorized agent, a credentialed or

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1 privileged physician or employee of a health facility or health  
2 care provider if the health care facility or health care  
3 provider itself is authorized to obtain the test results, the  
4 agent or employee provides patient care or handles or processes  
5 specimens of body fluids or tissues and the agent or employee  
6 has a need to know such information;

7 (4) the department of health in accordance  
8 with reporting requirements established by regulation;

9 (5) the department of health for the purpose  
10 of providing partner services;

11 (6) a health facility or health care provider  
12 that procures, processes, distributes or uses:

13 (a) a human body part from a deceased  
14 person, with respect to medical information regarding that  
15 person;

16 (b) semen provided prior to the  
17 effective date of the Human Immunodeficiency Virus Test Act for  
18 the purpose of artificial insemination;

19 (c) blood or blood products for  
20 transfusion or injection; or

21 (d) human body parts for transplant with  
22 respect to medical information regarding the donor or  
23 recipient;

24 (7) health facility staff committees or  
25 accreditation or oversight review organizations that are

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1 conducting program monitoring, program evaluation or service  
2 reviews, so long as any identity remains confidential;

3 (8) authorized medical or epidemiological  
4 researchers who may not further disclose any identifying  
5 characteristics or information; and

6 (9) for purposes of application or  
7 reapplication for insurance coverage, an insurer or reinsurer  
8 upon whose request the test was performed.

9 B. The department of health may disclose human  
10 immunodeficiency virus test results, including the identity of  
11 any person upon whom a test is performed:

12 (1) to the subject of the test or the  
13 subject's legally authorized representative, guardian or legal  
14 custodian;

15 (2) to the person who ordered the test or that  
16 person's agents or employees;

17 (3) in the conduct of public health practice,  
18 to appropriate municipal, county, state, federal or tribal  
19 public health agencies having at least equivalent security and  
20 confidentiality standards for human immunodeficiency virus test  
21 results as maintained by the department of health; and

22 (4) to health care personnel where necessary  
23 to protect the health of the individual who is the subject of  
24 the test or an individual who was significantly exposed to the  
25 subject of the test.

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1           ~~[B-]~~ C. For the purposes of this section:

2                   (1) "partner services" means a protocol that  
3 the department of health establishes by regulation similar to  
4 those protocols and regulations for other reportable sexually  
5 transmitted diseases for contacting individuals whom it  
6 identifies to be at risk of human immunodeficiency virus  
7 infection due to contact with an individual whom it has  
8 identified, through reporting made pursuant to Paragraph (4) or  
9 (5) of Subsection A of this section, as having been infected  
10 with human immunodeficiency virus; ~~[and]~~

11                   (2) "test" means a procedure that definitively  
12 diagnoses the presence of human immunodeficiency virus  
13 infection, either through the detection of the virus itself or  
14 the detection of antibodies against the virus; and

15                   (3) "public health practice" means a  
16 population-based activity or individual effort aimed primarily  
17 at the prevention of injury, disease or premature mortality or  
18 the promotion of health in a community, including:

19                               (a) surveillance and response; and

20                               (b) developing public health policy."

21           SECTION 3. EMERGENCY.--It is necessary for the public  
22 peace, health and safety that this act take effect immediately.