

NOTE: As provided in LFC policy, this report is intended for use by the standing finance committees of the legislature. The Legislative Finance Committee does not assume responsibility for the accuracy of the information in this report when used in any other situation.

Only the most recent FIR version, excluding attachments, is available on the Intranet. Previously issued FIRs and attachments may be obtained from the LFC office in Suite 101 of the State Capitol Building North.

FISCAL IMPACT REPORT

SPONSOR:	Marquardt	DATE TYPED:	02/14/00	HB	276/aHLC
SHORT TITLE:	HIV Testing Without Informed Consent			SB	
				ANALYST:	Dunbar

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY00	FY01	FY00	FY01		
		NFI			

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to

SOURCES OF INFORMATION

LFC files

Administrative Office of the Courts

Department of Health

SUMMARY

Synopsis of HLC Amendment

The House Labor Committee amendment clarifies the language pertaining to minor or incompetent individuals who have been exposed to the HIV virus. The language reads as follows:

"If the exposed individual is a minor or incompetent, the parent or guardian may petition the court to order that a test be performed on the source individual."

The amendment changed the word "offer" to "order."

Synopsis of Original Bill

HB 276 amends provisions of the Informed Consent Act relating to human immunodeficiency virus testing. The bill provides for testing of source individuals for the benefit of the exposed individuals without informed consent of the source individual pursuant to a court process.

The bill allows for an exposed individual to petition the court to order that a test be performed on the source individual, provided that the same test shall first be performed on the exposed individual. If the exposed individual is a minor or incompetent, the parent or guardian may petition the court to order that a test be performed on the source individual.

The court may issue an order based on a finding of good cause after a hearing at which both the source individual and the exposed individual have the right to be present. The hearing shall be conducted within

seventy-two hours after the petition is filed. The petition and all proceedings in connection with the petition shall be under seal. The test shall be administered on the source individual within three days after the order for testing is entered.

Significant Issues

HB 276 allows health care workers or law enforcement agents to petition the court to obtain HIV testing on a person to whom they were exposed when that person refuses to grant consent.

DOH indicates that highly effective treatments are available to prevent a person from getting the HIV infection following occupational exposures.

Obtaining information on the source person would prevent the exposed person from unnecessarily suffering adverse reaction from the medications used to prevent HIV infection.

The Governor's Task Force on HIV/AIDS and various professional associations and institutions support the intent of this bill.

HB 276 was introduced on behalf of DOH.

FISCAL IMPLICATIONS

According to the Administrative Office of the Courts (AOC), it will cost the judicial system \$400 for a statewide update, distribution, and documentation of statutory changes. Any additional fiscal impact on the judiciary would be proportional to the enforcement of this law and commenced prosecutions

AOC indicates that amendments to laws and new hearings have the potential to increase caseloads in the courts and therefore requiring additional resources to handle the new workload.

DOH reports no fiscal impact.

ADMINISTRATIVE IMPLICATIONS

AOC notes that the increase caseload and time required to process cases will have an effect on current administration.

OTHER SUBSTANTIVE ISSUES

HB 276 provides greater protection to health care workers, first responders who may be exposed to HIV.

Studies by the US Centers for Disease Control and Prevention demonstrated HIV infection could be prevented in greater than 80% of the cases if HIV medications are administered in a timely manner following exposure.

DOH notes that exposed persons must take HIV medications for a total of 28 days following the exposure in order to reduce their risk of infection. The treatment should be initiated within 72 hours following the exposure. Medications often have significant adverse reactions that can cause a person to be unable to function at work or could cause a person to stop taking the medications before the beneficial effect is realized.

DOH states that 1 or 2 in 1000 New Mexicans are infected with HIV and health care officials and law enforcement officials should not be expected to suffer the consequences.

HIV testing should be obtained without the individual consent only under special circumstances where another individual has been placed at risk against their will or in the line of duty.

AMENDMENTS

Change "offer" to "order" on page 5, line 3.

BD/njw:gm