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## **FISCAL IMPACT REPORT**

SPONSOR: HJC DATE TYPED: 03/08/01 HB 335/HJCS

SHORT TITLE: Mandatory Testing for Viral Hepatitis SB \_\_\_\_\_

ANALYST: Rael

### **APPROPRIATION**

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY01	FY02	FY01	FY02		
No Fiscal impact					

(Parenthesis ( ) Indicate Expenditure Decreases)

### **SOURCES OF INFORMATION**

Health Policy Commission (HPC)  
Attorney General's Office (AG)  
Corrections Department

No Response

Department of Health (DOH)

### **SUMMARY**

#### Synopsis of Bill

The Mandatory Testing for Viral Hepatitis bill would provide for mandatory testing of a person who is identified as at-risk or believed to have viral hepatitis when his/her blood may have been a source of significant exposure to another person. If the person does not consent, the exposed individual (or in the case of a minor, a parent or guardian) may petition the court for an order that the test be performed. The court may issue an order based on a finding of good cause after a hearing that must be conducted no later than 24 hours after the petition is filed.

The identity of the subject and the test results are confidential except they may be disclosed to the following: the subject's legally authorized representative, a person designated in a legally effective release, an authorized agent of the health care facility or health care provider administering the test or handling body parts or fluids from the subject, the Department of Health, program reviewers or evaluators (so long as the identity remains confidential), researchers and insurers. An unauthorized disclosure is subject to a petty misdemeanor with a jail term not to exceed six months and/or a fine of \$500.

### **FISCAL IMPLICATIONS**

No fiscal impact. However, the Corrections Department suggests that this bill could actually have a positive fiscal impact. Testing of inmates could prevent the spread of viral hepatitis to employees as well as other probationers, parolees and inmates, thus lowering medical costs associated with treating employees and probationers, parolees and inmates exposed to viral hepatitis.

#### **ADMINISTRATIVE IMPLICATIONS**

The provision providing for a hearing within 24 hours of filing the petition may prove to be a burden on the courts.

#### **OTHER SUBSTANTIVE ISSUES**

Courts have routinely held that mandatory testing does not violate an individual's 4th Amendment right to privacy as long as the government's interest outweighs the individual's right to privacy. Here, the government's interest appears to be the diagnosis and prevention of the spread of a significant disease.

A large majority of the inmates in Corrections Department facilities as well as those on probation and parole are drug abusers who, through unprotected sex or sharing of dirty, contaminated needles are probably exposed to, or carriers of, viral hepatitis. A large number of inmates (and to a much lesser extent, probationers and parolees) engage in inappropriate, disruptive behaviors that could and do result in Department employees being involuntarily exposed to blood and bodily fluids of these "source" probationers, parolees and inmates. This bill could provide protections to those employees who are potentially exposed to viral hepatitis by these probationers, parolees and inmates.

Viral Hepatitis is reported to be at epidemic levels in New Mexico and contributes to our health care problems by increasing utilization and the need for organ transplantation. Identifying carriers and exposed individuals is key to early treatment and halting further transmission. Early treatment and halting further transmission are critical to public health and minimizing the costs of resulting health care services.

FAR/sb:ar