

VIRGINIA ACTS OF ASSEMBLY -- 2005 SESSION

CHAPTER 438

An Act to amend and reenact § 18.2-346.1 of the Code of Virginia, relating to testing for and limited disclosure of infection with certain blood-borne pathogens; persons convicted of certain crimes.

[H 2854]

Approved March 21, 2005

Be it enacted by the General Assembly of Virginia:

1. That § 18.2-346.1 of the Code of Virginia is amended and reenacted as follows:

§ 18.2-346.1. Testing of convicted prostitutes and injection drug users for infection with human immunodeficiency viruses and hepatitis C; limited disclosure.

A. As soon as practicable following conviction of any person for violation of § 18.2-346 or § 18.2-361, or any violation of Article 1 (§ 18.2-247 *et seq.*) or 1.1 (§ 18.2-265.1 *et seq.*) of Chapter 7 involving the possession, sale, or use of a controlled substance in a form amenable to intravenous use; or the possession, sale, or use of hypodermic syringes, needles, or other objects designed or intended for use in parenterally injecting controlled substances into the human body, such person shall be required to submit to testing for infection with human immunodeficiency ~~virus~~ viruses and hepatitis C. The convicted person shall receive counseling from personnel of the Department of Health concerning (i) the meaning of the test, (ii) acquired immunodeficiency syndrome and hepatitis C, and (iii) the transmission and prevention of infection with human immunodeficiency ~~virus~~ viruses and hepatitis C.

B. Tests for human immunodeficiency viruses shall be conducted to confirm any initial positive test results before any test result shall be determined to be positive for infection. The results of such test shall be confidential as provided in § 32.1-36.1 and shall be disclosed to the person who is the subject of the test and to the Department of Health as required by § 32.1-36. The Department shall conduct surveillance and investigation in accordance with the requirements of § 32.1-39.

C. Upon receiving a report of a positive test for hepatitis C, the State Health Commissioner may share protected health information relating to such positive test with relevant sheriffs' offices, the state police, local police departments, adult or youth correctional facilities, salaried or volunteer firefighters, paramedics or emergency medical technicians, officers of the court, and regional or local jails (i) to the extent necessary to advise exposed individuals of the risk of infection and to enable exposed individuals to seek appropriate testing and treatment, and (ii) as may be needed to prevent and control disease and is deemed necessary to prevent serious harm and serious threats to the health and safety of individuals and the public.

The disclosed protected health information shall be held confidential; no person to whom such information is disclosed shall redisclose or otherwise reveal the protected health information without first obtaining the specific authorization from the individual who was the subject of the test for such redisclosure.

Such protected health information shall only be used to protect the health and safety of individuals and the public in conformance with the regulations concerning patient privacy promulgated by the federal Department of Health and Human Services, as such regulations may be amended.

D. The results of the ~~test~~ tests shall not be admissible in any criminal proceeding related to prostitution or drug use.

The cost of the ~~test~~ tests shall be paid by the Commonwealth and taxed as part of the cost of such criminal proceedings.