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LET SCHOOL STAFF REQUEST THAT PUPILS BE TESTED FOR HIV

House Bill 4245
Sponsor: Rep. Mike Kowall
Committee: Health Policy

Complete to 3-16-01

A SUMMARY OF HOUSE BILL 4245 AS INTRODUCED 2-14-01

The bill would amend the Public Health Code to allow school teachers or employees, under certain circumstances, to request that pupils be tested for HIV infection, HBV infection, HCV infection, or a combination of all three infections.

Currently, Section 5204 of the health code allows police officers, firefighters, local correctional officers or other county employees, court employees, or private security guards to request that an arrestee, correctional facility inmate, parolee, or probationer be tested for HIV (human immunodeficiency virus) infection, HBV (hepatitis B virus) infection, or HCV (hepatitis C virus) infection if (a) the requesting individual has received training in the transmission of bloodborne diseases under the rules governing exposure to bloodborne diseases in the workplace promulgated by the Occupational Health Standards Commission or under the Michigan Occupational Safety and Health Act, and (b) the requesting person had been exposed (through the skin, mucous membrane, or open wound) to the blood or bodily fluids of the arrestee, inmate, parolee, or probationer. If the arrestee, inmate, parolee, or probationer consents to the test(s), the requester's employer must transport the test subject to the local health department or designated health care provider for testing (or a representative from the local health department or designated health care provider can come to where the test subject is held or housed to take a sample for testing). However, if the arrestee, inmate, parolee, or probationer refuses to undergo testing, the requester's employer may petition the family division of the circuit court under provisions specified in this part of the health code (in sections 5205 and 5207). The individual making the request is responsible for paying for the testing, unless his or her employer pays for the testing.

The bill would amend this section of the health code to add elementary and secondary school teachers and employees to the list of people who could request HIV, HBV, and HCV testing, and pupils to the list of people who are subject to testing at the request of school teachers and employees. If the pupil were a minor, his or her parent or legal guardian would be the individual who consented to, or refused, the testing of the pupil.

The bill also would amend section 5205 of the health code, which specifies the procedures to be followed when a test subject refuses to undergo testing and an employer petitions the circuit court, to add references to elementary school teachers or employees who request that pupils be tested, as well as language referring to test subjects who are minors and their parents or legal guardians.

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Note: Current language in section 5204 lets employers petition “the family division of the circuit court” when someone refuses to consent to requested testing. Public Act 37 of 2000, however, amended section 5205 to refer to employer petitions under section 5204 as going to “the circuit court for the county in which the employer is located or the appropriate district court.” Also, the bill would strike current references in section 5204 to “an officer or an employee,” terms which are defined in subsection 12 of the section. These terms also would be stricken from section 5205, except for one occurrence (on page 9, line 4).

MCL 333.5204 and 333.5205

Analyst: S. Ekstrom

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