

As Introduced

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Representative Slaby, M.

Cosponsors: Representatives Adams, J., Terhar, Wachtmann

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A B I L L

To amend section 2907.27 of the Revised Code to 1
authorize a court to inform the victim of any of 2
certain offenses, without waiting for the victim's 3
request, of the results of a court-ordered HIV 4
test of the person accused of the offense. 5

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That section 2907.27 of the Revised Code be 6
amended to read as follows: 7

Sec. 2907.27. (A)(1) If a person is charged with a violation 8
of section 2907.02, 2907.03, 2907.04, 2907.24, 2907.241, or 9
2907.25 of the Revised Code or with a violation of a municipal 10
ordinance that is substantially equivalent to any of those 11
sections, the arresting authorities or a court, upon the request 12
of the prosecutor in the case or upon the request of the victim, 13
shall cause the accused to submit to one or more appropriate tests 14
to determine if the accused is suffering from a venereal disease. 15

(2) If the accused is found to be suffering from a venereal 16
disease in an infectious stage, the accused shall be required to 17
submit to medical treatment for that disease. The cost of the 18
medical treatment shall be charged to and paid by the accused who 19

undergoes the treatment. If the accused is indigent, the court 20
shall order the accused to report to a facility operated by a city 21
health district or a general health district for treatment. If the 22
accused is convicted of or pleads guilty to the offense with which 23
the accused is charged and is placed under a community control 24
sanction, a condition of community control shall be that the 25
offender submit to and faithfully follow a course of medical 26
treatment for the venereal disease. If the offender does not seek 27
the required medical treatment, the court may revoke the 28
offender's community control and order the offender to undergo 29
medical treatment during the period of the offender's 30
incarceration and to pay the cost of that treatment. 31

(B)(1)(a) If a person is charged with a violation of division 32
(B) of section 2903.11 or of section 2907.02, 2907.03, 2907.04, 33
2907.05, 2907.12, 2907.24, 2907.241, or 2907.25 of the Revised 34
Code or with a violation of a municipal ordinance that is 35
substantially equivalent to that division or any of those 36
sections, the court, upon the request of the prosecutor in the 37
case, upon the request of the victim, or upon the request of any 38
other person whom the court reasonably believes had contact with 39
the accused in circumstances related to the violation that could 40
have resulted in the transmission to that person the human 41
immunodeficiency virus, shall cause the accused to submit to one 42
or more tests designated by the director of health under section 43
3701.241 of the Revised Code to determine if the accused is 44
infected with HIV. The court, upon the request of the prosecutor 45
in the case, upon the request of the victim with the agreement of 46
the prosecutor, or upon the request of any other person with the 47
agreement of the prosecutor, may cause an accused who is charged 48
with a violation of any other section of the Revised Code or with 49
a violation of any other municipal ordinance to submit to one or 50
more tests so designated by the director of health if the 51
circumstances of the violation indicate probable cause to believe 52

that the accused, if the accused is infected with HIV, might have transmitted HIV to any of the following persons in committing the violation:

(i) In relation to a request made by the prosecuting attorney, to the victim or to any other person;

(ii) In relation to a request made by the victim, to the victim making the request;

(iii) In relation to a request made by any other person, to the person making the request.

(b) The results of a test performed under division (B)(1)(a) of this section shall be communicated in confidence to the court, and the court shall inform the accused of the result. The court shall inform the victim that the test was performed and either inform the victim of the result or inform the victim that the victim has a right to receive the results on request. If the test was performed upon the request of a person other than the prosecutor in the case and other than the victim, the court shall inform the person who made the request that the test was performed and that the person has a right to receive the results upon request. Additionally, regardless of who made the request that was the basis of the test being performed, if the court reasonably believes that, in circumstances related to the violation, a person other than the victim had contact with the accused that could have resulted in the transmission of HIV to that person, the court may inform that person that the test was performed and that the person has a right to receive the results of the test on request. If the accused tests positive for HIV, the test results shall be reported to the department of health in accordance with section 3701.24 of the Revised Code and to the sheriff, head of the state correctional institution, or other person in charge of any jail or prison in which the accused is incarcerated. If the accused tests positive for HIV and the accused was charged with, and was

convicted of or pleaded guilty to, a violation of section 2907.24, 85
2907.241, or 2907.25 of the Revised Code or a violation of a 86
municipal ordinance that is substantially equivalent to any of 87
those sections, the test results also shall be reported to the law 88
enforcement agency that arrested the accused, and the law 89
enforcement agency may use the test results as the basis for any 90
future charge of a violation of division (B) of any of those 91
sections or a violation of a municipal ordinance that is 92
substantially equivalent to division (B) of any of those sections. 93
No other disclosure of the test results or the fact that a test 94
was performed shall be made, other than as evidence in a grand 95
jury proceeding or as evidence in a judicial proceeding in 96
accordance with the Rules of Evidence. If the test result is 97
negative, and the charge has not been dismissed or if the accused 98
has been convicted of the charge or a different offense arising 99
out of the same circumstances as the offense charged, the court 100
shall order that the test be repeated not earlier than three 101
months nor later than six months after the original test. 102

(2) If an accused who is free on bond refuses to submit to a 103
test ordered by the court pursuant to division (B)(1) of this 104
section, the court may order that the accused's bond be revoked 105
and that the accused be incarcerated until the test is performed. 106
If an accused who is incarcerated refuses to submit to a test 107
ordered by the court pursuant to division (B)(1) of this section, 108
the court shall order the person in charge of the jail or prison 109
in which the accused is incarcerated to take any action necessary 110
to facilitate the performance of the test, including the forcible 111
restraint of the accused for the purpose of drawing blood to be 112
used in the test. 113

(3) A state agency, a political subdivision of the state, or 114
an employee of a state agency or of a political subdivision of the 115
state is immune from liability in a civil action to recover 116

damages for injury, death, or loss to person or property allegedly	117
caused by any act or omission in connection with the performance	118
of the duties required under division (B)(2) of this section	119
unless the acts or omissions are with malicious purpose, in bad	120
faith, or in a wanton or reckless manner.	121
(C) As used in this section:	122
(1) "Community control sanction" has the same meaning as in	123
section 2929.01 of the Revised Code.	124
(2) "HIV" means the human immunodeficiency virus.	125
Section 2. That existing section 2907.27 of the Revised Code	126
is hereby repealed.	127