

Legislative Analysis



EXPEDITED COURT-ORDERED HEALTH TESTING OF DEFENDANTS

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Senate Bill 1036 (Substitute S-2)

Sponsor: Sen. Rick Jones

(Enacted as Public Act 321 of 2014)

House Committee: Criminal Justice

Senate Committee: Judiciary

Complete to 9-30-14

A SUMMARY OF SENATE BILL 1036 AS PASSED BY THE SENATE 9-23-14

Under the Public Health Code, courts are permitted or required to order that individuals charged with or found guilty of certain crimes undergo a variety of health examinations and tests. If a defendant is transferred to circuit court or recorder's court for prostitution-related crimes or for solicitation of a minor, gross indecency, criminal sexual conduct or CSC (e.g., rape or sexual contact), or intravenous drug use under the state's Penal Code, and the district court determines there is reason to believe the violation involved sexual penetration or exposure to a body fluid of the defendant, the district court must order the defendant to be examined or tested for venereal disease, hepatitis B infection, hepatitis C infection, and for the presence of HIV or an antibody to HIV.

Senate Bill 1036 would amend the Public Health Code to add the following language to the provision described above:

- ❖ Require the circuit court to order the examination or testing if the defendant is brought before the court by way of indictment for any of the violations described above.
- ❖ Require the court, upon the victim's request, to order that the examination or testing of a defendant charged under the CSC statutes (Sections 520b-520e and 520g of the Michigan Penal Code) be done not later than 48 hours after the date that the information or indictment is presented and the defendant is in custody or has been served with the information or indictment.
- ❖ Require the court to include in the order for expedited examination or testing a provision requiring follow-up examination or testing that is considered medically appropriate based on the results of the initial examination or testing. The results of the follow-up testing for the presence of HIV would have to be immediately provided to the victim of the CSC if the victim had consented to the court providing the entity administering the test with the victim's contact information.

Further, the code specifies that the examination or test results and any other medical information obtained from the defendant or juvenile being adjudicated under provisions of the Probate Code must be transmitted to the court and, after sentencing or an order of disposition is entered, made a part of the court record. The bill would clarify that the examination or test results and any other medical information described in the provision

are confidential and may only be disclosed to the listed individuals or entities (e.g., the defendant or juvenile or the local health department).

The bill would also strike the definitions for the terms "sexual contact," "sexual penetration," and "victim" and instead define each term as having the same meaning as those terms are defined in Section 520a of the Michigan Penal Code. (Section 520a pertains to the criminal sexual conduct statutes.)

The bill would take effect 90 days after enactment.

MCL 333.5129

FISCAL IMPACT:

The bill does not have any fiscal implications for the Department of Community Health or local health departments.

An analysis of the fiscal implications for the judiciary is in process.

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.