



**Senate Fiscal Agency**  
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Senate Bill 1036 (as introduced 9-9-14)  
Sponsor: Senator Rick Jones  
Committee: Judiciary

Date Completed: 9-15-14

## **CONTENT**

**The bill would amend the Public Health Code to do the following:**

- **Require the court to order expedited medical testing of a defendant charged with criminal sexual conduct (CSC), upon the victim's request.**
- **Upon the conviction of a defendant or the adjudication of a juvenile for certain offenses, require medical test results to be given to the victim if the defendant or juvenile received follow-up testing for the presence of HIV.**

### Expedited Testing

Under the Code, if a defendant is bound over to circuit court for certain violations, 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, and hepatitis C, and for the presence of HIV or an antibody to HIV. The requirement applies to a defendant bound over for any of the following:

- Accosting, enticing, or soliciting a child for an immoral purpose.
- Gross indecency.
- Certain prostitution-related offenses.
- First-, second-, third-, or fourth-degree CSC or assault with intent to commit CSC.

The bill also would require the circuit court to order the examination or testing if the defendant were charged with any of those violations by indictment.

In addition, if a defendant were charged with any of the CSC offenses listed above, the court, upon the victim's request, would have to order the examination or testing to be done within 48 hours after the time that the information or indictment was presented and the defendant was in custody or had been served with the information or indictment. The court would have to include in its order for expedited examination or testing a provision that required follow-up examination or testing that was considered medically appropriate based on the results of the initial examination or testing.

### Notification of the Victim

Under the Code, upon conviction of a defendant or adjudication of a juvenile for certain offenses, the court must order the defendant or juvenile to be examined or tested for venereal disease, hepatitis B, and hepatitis C and for the presence of HIV or an antibody to HIV. Except as otherwise provided, the exam and tests must be confidentially administered

by a licensed physician, the Department of Community Health, or a local health department. The court also must order the defendant or juvenile to receive counseling regarding venereal disease, hepatitis B, hepatitis C, HIV, and AIDS, including information regarding treatment, transmission, and protective measures. The requirement applies to a person convicted of or adjudicated for any of the following:

- Accosting, enticing, or soliciting a child for an immoral purpose.
- Gross indecency.
- Certain prostitution-related offenses.
- First-, second-, third-, or fourth-degree CSC or assault with intent to commit CSC.
- Intravenous use of a controlled substance.

If the victim or person with whom the defendant or juvenile engaged in sexual penetration or sexual contact, or who was exposed to a body fluid during the course of the crime consents, the court must give the person or agency conducting the exam or administering the tests the victim's name, address, and telephone number. After the defendant or juvenile is examined or tested as to the presence of venereal disease, hepatitis B, hepatitis C, or HIV or an antibody to HIV, the person or agency conducting the exam or administering the tests must immediately give the result to the victim.

The bill also would require the results to be given to the victim if the defendant or juvenile received appropriate follow-up testing for the presence of HIV.

MCL 333.5129

Legislative Analyst: Patrick Affholter

### **FISCAL IMPACT**

The bill would, at the request of a victim, require an examination or test to be performed on a defendant within 48 hours after an information or indictment was presented and the defendant was in custody or had been served. Relative to current practices, this would create a deadline in which the physical exam or test had to be performed. To the extent that these tests are already performed in local jails, there would be no fiscal impact. Also, based on the results of the initial examination or testing, the court would have to order that "medically appropriate" follow-up testing or examinations be performed. As far as it is already current practice for local jails to meet the requirement for a follow-up medically appropriate examination or test, there would be no fiscal impact.

The bill would have no fiscal impact on State government.

Fiscal Analyst: John Maxwell

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.