

No. 1994-75

AN ACT

HB 2457

Amending the act of April 23, 1956 (1955 P.L.1510, No.500), entitled, as amended, "An act providing for the prevention and control of communicable and non-communicable diseases including venereal diseases, fixing responsibility for disease prevention and control, requiring reports of diseases, and authorizing treatment of venereal diseases, and providing for premarital and prenatal blood tests; amending, revising and consolidating the laws relating thereto; and repealing certain acts," defining "HIV-related test"; and providing for human immunodeficiency virus (HIV) testing of sex offenders.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Section 2 of the act of April 23, 1956 (1955 P.L.1510, No.500), known as the Disease Prevention and Control Law of 1955, is amended by adding a subsection to read:

Section 2. Definitions.—

The following terms, whenever used in this act, have the meanings indicated in this section, except where the context indicates a clearly different meaning:

* * *

(d.1) HIV-related test. Any laboratory test or series of tests for any virus, antibody, antigen or etiologic agent whatsoever thought to cause or to indicate the presence of HIV infection.

* * *

Section 2. The act is amended by adding a section to read:

Section 11.1. Human Immunodeficiency Virus (HIV) Testing of Certain Convicted Offenders.—

(a) This section is enacted in order to comply with the requirements of section 506 of the Omnibus Crime Control and Safe Streets Act of 1968 (Public Law 90-351, 42 U.S.C. § 3756) which compels states to enact a law requiring administration of HIV-related tests to individuals convicted of specified offenses when a victim requests that such a test be performed.

(b) When an individual has been convicted or adjudicated delinquent of one of the offenses listed in subsection (c), the victim of that offense may request that an HIV-related test be performed on the individual who has been convicted or adjudicated delinquent, and the results of that test shall be disclosed to the victim. If the victim requests a test within six weeks of the conviction or adjudication of delinquency, then the individual who has been convicted or adjudicated delinquent shall be deemed to have consented to the performance of an HIV-related test and to the release of the results of that test to the victim notwithstanding sections 5(a) and 7(a)(3) of the act of November 29, 1990 (P.L.585, No.148), known as the "Confidentiality of

HIV-Related Information Act"; the test shall otherwise be administered and the results released to the victim in accordance with the provisions of the "Confidentiality of HIV-Related Information Act." As used in this subsection, the term "victim" shall include the parent or legal guardian of a minor or mentally disabled adult. As used in this subsection, the term "convicted" includes conviction by entry of a plea of guilty or nolo contendere, conviction after trial and a finding of not guilty due to insanity or a finding of guilty but mentally ill.

(c) The HIV-related test shall be performed at the request of a victim if the individual has been convicted or adjudicated delinquent under one of the following provisions of 18 Pa.C.S. (relating to crimes and offenses):

Section 3121 (relating to rape).

Section 3122 (relating to statutory rape).

Section 3123 (relating to involuntary deviate sexual intercourse).

Section 3128 (relating to spousal sexual assault).

Section 4302 (relating to incest).

Section 6301 (relating to corruption of minors) if there has been sexual intercourse as defined in 18 Pa.C.S. § 3101 (relating to definitions) between the individual who has been convicted or adjudicated delinquent and the victim.

(d) When a victim requests that an HIV-related test be performed on an individual convicted or adjudicated delinquent of one of the offenses listed in subsection (c), the request shall be forwarded to the department or local board or local health department along with the name and current address of the victim and the individual convicted or adjudicated delinquent, if known. All information regarding the request shall be maintained as confidential in accordance with section 15 of this act.

(e) The department or local board or local health department shall make provisions for:

(1) The administration of the HIV-related test to the individual convicted or adjudicated delinquent in accordance with subsection (b) of this section.

(2) Notification to the victim of the results of the test administered to the individual convicted or adjudicated delinquent.

(3) HIV-related testing to and counseling of the victim in accordance with the "Confidentiality of HIV-Related Information Act" at no cost to the victim.

(4) Referral of the victim to appropriate health care and support services.

Section 3. This act shall take effect in 60 days.

APPROVED—The 29th day of September, A.D. 1994.

ROBERT P. CASEY