

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1130 Session of
1991

INTRODUCED BY WILLIAMS, BELARDI, E. Z. TAYLOR, ROBINSON,
BELFANTI, FAIRCHILD, ANGSTADT, FARGO, LAUGHLIN, KOSINSKI,
COHEN, WOGAN, VROON, JOHNSON, DeLUCA, DALEY, COLAFELLA,
KAISER, MELIO, DEMPSEY, HARPER, PESCI, PISTELLA, STEELMAN,
VEON, JAMES AND FLICK, APRIL 10, 1991

REFERRED TO COMMITTEE ON JUDICIARY, APRIL 10, 1991

AN ACT

1 Amending Title 18 (Crimes and Offenses) of the Pennsylvania
2 Consolidated Statutes, authorizing the ordering of acquired
3 immune deficiency syndrome (AIDS) testing of certain persons
4 and providing for procedures.

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

7 Section 1. Title 18 of the Pennsylvania Consolidated
8 Statutes is amended by adding a section to read:

9 § 1109. AIDS testing.

10 (a) General rule.--Upon conviction of a person for a
11 violation of sections 3121 (relating to rape) and 3122 (relating
12 to statutory rape), the court shall order the convicted person
13 to submit to an AIDS test if the victim of the crime or the
14 legal guardian of the victim requests the court to enter an
15 order therefor.

16 (b) Receipt of test results.--If an AIDS test is ordered
17 under subsection (a), the victim of the crime, who is not a

1 minor, shall designate a health care provider or counselor to
2 receive the test results on behalf of the victim. If the victim
3 is a minor or an incapacitated person, the parent or legal
4 guardian of the victim shall designate a health care provider or
5 counselor to receive the results. If the test results in a
6 negative reaction, the court shall order the convicted person to
7 submit to another AIDS test six months after the first test was
8 administered.

9 (c) Disclosure of test results.--The results of any AIDS
10 test ordered under subsection (a) shall be disclosed to the
11 court that ordered the test, to the convicted person and to the
12 person designated under subsection (b) to receive the
13 information. If the AIDS test ordered under this section results
14 in a positive reaction, the results shall be reported to the
15 Department of Health and to the Department of Corrections, and
16 such counseling as directed by the Department of Health shall be
17 provided to the victim or victims.

18 (d) Costs.--The costs of any counseling provided under
19 subsection (c) by the Department of Health shall be paid from
20 amounts appropriated for such purpose to the Department of
21 Health. Restitution to the Commonwealth for payment of the costs
22 of any counseling provided under this section and for payment of
23 the costs of any test ordered under this section shall be
24 included by the court in any order requiring the convicted
25 person to pay restitution or costs.

26 (e) Withdrawal of blood.--

27 (1) When a court orders a convicted person to submit to
28 an AIDS test under subsection (b), the withdrawal of blood
29 may be performed only by:

30 (i) a person licensed to practice medicine and

1 surgery or a person acting under the supervision of any
2 such licensed person;

3 (ii) a licensed professional nurse or a licensed
4 practical nurse; or

5 (iii) a qualified medical technician.

6 (2) No person authorized by paragraph (1) to withdraw
7 blood, no person assisting in the performance of the AIDS
8 test nor any medical care facility where blood is withdrawn
9 or tested that has been ordered by the court to withdraw or
10 test blood shall be liable in any civil or criminal action
11 when the act is performed in a reasonable manner according to
12 generally accepted medical practices.

13 (f) Confidentiality.--The results of tests or reports, or
14 information therein, obtained under this section shall be
15 confidential and shall not be divulged to any person not
16 authorized by this section to receive the results or
17 information. A person who violates this subsection commits a
18 misdemeanor of the third degree.

19 (g) Definitions.--As used in this section, the following
20 words and phrases shall have the meanings given to them in this
21 subsection:

22 "AIDS test." A test approved by the Department of Health to
23 detect antibodies to the probable causative agent for acquired
24 immune deficiency syndrome (AIDS).

25 "Positive reaction." A positive acquired immune deficiency
26 syndrome (AIDS) test with a positive confirmatory test result as
27 specified by the Department of Health.

28 Section 2. This act shall take effect immediately.