

**ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO 2001 ASSEMBLY BILL 156**

May 18, 2001 – Offered by Representative WADE.

1 **AN ACT** *to renumber and amend* 252.15 (5m) (intro.), 252.15 (5m) (a), 252.15
2 (5m) (b) and 252.15 (5m) (c); *to amend* 252.15 (2) (a) 7. a., 252.15 (2) (a) 7. ai.
3 and 252.15 (8) (a); and *to create* 252.15 (5m) (bg) and 252.15 (8) (c) of the
4 statutes; **relating to:** permitting certain individuals to subject another
5 individual's blood to a test for the human immunodeficiency virus, requiring
6 the withdrawal and preservation of a blood specimen from certain corpses,
7 permitting certain persons to subject a corpse or blood specimen withdrawn
8 from a corpse to a test for the presence of the human immunodeficiency virus
9 or other blood-borne pathogens, the recovery of costs of certain tests for the
10 presence of the human immunodeficiency virus, and requiring a funeral
11 director to obtain a release before embalming certain corpses.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

12 **SECTION 1.** 252.15 (2) (a) 7. a. of the statutes is amended to read:

1 252.15 (2) (a) 7. a. If all of the conditions under subd. 7. ai. to c. are met, an
2 emergency medical technician, first responder, fire fighter, peace officer, correctional
3 officer, person who is employed at a secured correctional facility, as defined in s.
4 938.02 (15m), a secured child caring institution, as defined in s. 938.02 (15g), or a
5 secured group home, as defined in s. 938.02 (15p), state patrol officer, jailer or keeper
6 of a jail or person designated with custodial authority by the jailer or keeper who,
7 during the course of providing care or services to an individual; or a peace officer,
8 correctional officer, state patrol officer, jailer or keeper of a jail or person designated
9 with custodial authority by the jailer or keeper who, while searching or arresting an
10 individual or while controlling or transferring an individual in custody; or a health
11 care provider or an employee of a health care provider who, during the course of
12 providing care or treatment to an individual or handling or processing specimens of
13 body fluids or tissues of an individual; or a staff member of a state crime laboratory
14 who, during the course of handling or processing specimens of body fluids or tissues
15 of an individual; or a person who is exempt from civil liability under s. 895.48 for his
16 or her acts or omissions in providing emergency care to an individual during an
17 emergency or accident and who, during the course of providing the emergency care;
18 is significantly exposed to the individual may subject the individual's blood to a test
19 or a series of tests for the presence of HIV, antigen or nonantigenic products of HIV
20 or an antibody to HIV and may receive disclosure of the results.

21 **SECTION 2.** 252.15 (2) (a) 7. ai. of the statutes is amended to read:

22 252.15 (2) (a) 7. ai. The affected person uses universal precautions, if any,
23 against significant exposure, and was using universal precautions at the time that
24 he or she was significantly exposed, except in those emergency circumstances in
25 which the time necessary for use of the universal precautions would endanger the

1 life of the individual and in those circumstances in which the emergency caregiver
2 is a person exempted from civil liability under the conditions specified under s.
3 895.48.

4 **SECTION 3.** 252.15 (5m) (intro.) of the statutes is renumbered 252.15 (5m) (am)
5 (intro.) and amended to read:

6 252.15 **(5m)** (am) (intro.) Notwithstanding s. 157.05, a corpse ~~may~~ or a blood
7 specimen that is withdrawn under par. (bg), shall be subjected to a test for the
8 presence of HIV, antigen or nonantigenic products of HIV ~~or~~ an antibody to HIV, or
9 other blood-borne pathogen and the test results disclosed to the person individual
10 who has been significantly exposed under any of the following conditions:

11 **SECTION 4.** 252.15 (5m) (a) of the statutes is renumbered 252.15 (5m) (am) 1.
12 and amended to read:

13 252.15 **(5m)** (am) 1. If a person ~~an individual~~, including a person an individual
14 exempted from civil liability under the conditions specified under s. 895.48, who
15 renders to the victim of an emergency or accident emergency care during the course
16 of which the emergency caregiver is significantly exposed to the emergency or
17 accident victim and the emergency or accident victim subsequently dies prior to
18 testing for the presence of HIV, antigen or nonantigenic products of HIV ~~or~~ an
19 antibody to HIV, or other blood-borne pathogen, and if a physician, based on
20 information provided to the physician, determines and certifies in writing that the
21 emergency caregiver has been significantly exposed and if the certification
22 accompanies the request for testing and disclosure. ~~Testing of a corpse under this~~
23 ~~paragraph shall be ordered by the~~ The coroner, medical examiner or physician who
24 certifies the victim's cause of death under s. 69.18 (2) (b), (c) or (d) shall order the
25 testing of the corpse or the blood specimen that is withdrawn under par. (bg).

1 **SECTION 5.** 252.15 (5m) (b) of the statutes is renumbered 252.15 (5m) (am) 2.
2 and amended to read:

3 252.15 **(5m)** (am) 2. If a funeral director, coroner, medical examiner or
4 appointed assistant to a coroner or medical examiner who prepares the corpse of a
5 decedent for burial or other disposition or ~~a person~~ an individual who performs an
6 autopsy or assists in performing an autopsy is significantly exposed to the corpse,
7 and if a physician, based on information provided to the physician, determines and
8 certifies in writing that the funeral director, coroner, medical examiner or appointed
9 assistant has been significantly exposed and if the certification accompanies the
10 request for testing and disclosure. ~~Testing of a corpse under this paragraph shall be~~
11 ~~ordered by the~~ The attending physician of the funeral director, coroner, medical
12 examiner or appointed assistant who is so exposed shall order the testing of the
13 corpse or the blood specimen that is withdrawn under par. (bg).

14 **SECTION 6.** 252.15 (5m) (bg) of the statutes is created to read:

15 252.15 **(5m)** (bg) 1. Notwithstanding s. 157.05, in cases involving a death that
16 must be reported under s. 979.01 (1g), if the coroner or medical examiner of the
17 county where the death occurred determines that, because of the condition of the
18 decedent's body or because of the manner in which the decedent died, had an
19 individual had contact with the decedent's body immediately before or after the
20 decedent's death without using universal precautions, the individual may have been
21 significantly exposed, the coroner or medical examiner shall withdraw a blood
22 specimen of 10 cubic centimeters from the body of the decedent or shall require a
23 physician designated by the coroner or medical examiner or a qualified person at the
24 direction of the physician to withdraw a blood specimen of 10 cubic centimeters from
25 the body of the decedent. The coroner or medical examiner shall preserve the blood

1 specimen for the 96 hours immediately following the time the blood specimen was
2 withdrawn or until the coroner or medical examiner receives notification under subd.
3 2., whichever is earlier. The coroner or medical examiner shall preserve the blood
4 under conditions that maintain the integrity of the specimen for laboratory testing
5 as specified by the department. Upon receipt of notification under subd. 2., the
6 coroner shall forward the blood specimen to a laboratory designated to conduct the
7 test. If the coroner does not receive notification under subd. 2. within the 96 hours
8 immediately following the time the blood specimen was withdrawn, the coroner shall
9 dispose of the specimen.

10 2. A person under par. (am) who orders the testing of a blood specimen that is
11 withdrawn under this paragraph shall notify the coroner or medical examiner who
12 is preserving the specimen that a test for presence of HIV, antigen or nonantigenic
13 products of HIV, an antibody to HIV, or other blood-borne pathogen has been
14 ordered.

15 3. A funeral director shall obtain a release from the coroner or medical
16 examiner of the county where the accident occurred, as provided in s. 979.01 (4), prior
17 to proceeding with embalming a corpse that is subject to this paragraph.

18 4. The cost of obtaining, storing, and disposing of a blood specimen that is
19 withdrawn under this paragraph shall be paid by the county where the death
20 occurred.

21 **SECTION 7.** 252.15 (5m) (c) of the statutes is renumbered 252.15 (5m) (am) 3.
22 and amended to read:

23 252.15 (5m) (am) 3. If a health care provider or an agent or employee of a health
24 care provider is significantly exposed to the corpse or to a patient who dies
25 subsequent to the exposure and prior to testing for the presence of HIV, antigen or

1 nonantigenic products of HIV or an antibody to HIV, or other blood-borne pathogen,
2 and if a physician who is not the health care provider, based on information provided
3 to the physician, determines and certifies in writing that the health care provider,
4 agent or employee has been significantly exposed and if the certification
5 accompanies the request for testing and disclosure. ~~Testing of a corpse under this~~
6 ~~paragraph shall be ordered by the~~ The physician who certifies that the significant
7 exposure has occurred shall order the testing of the corpse or the blood specimen that
8 is withdrawn under par. (bg).

9 **SECTION 8.** 252.15 (8) (a) of the statutes, as affected by 1999 Wisconsin Act 79,
10 is amended to read:

11 252.15 **(8)** (a) Any person violating sub. (2), (5) (a), (5m) (am), (6) or (7) (c) is
12 liable to the subject of the test for actual damages, costs and reasonable actual
13 attorney fees, plus exemplary damages of up to \$1,000 for a negligent violation and
14 up to \$25,000 for an intentional violation.

15 **SECTION 9.** 252.15 (8) (c) of the statutes is created to read:

16 252.15 **(8)** (c) If a person's violation of any of the requirements of sub. (5m)
17 prevents a test ordered under sub. (5m) from being performed or a reliable test result
18 from being obtained, the individual for whom the test was ordered may recover from
19 the person any reasonable costs incurred by the individual in testing the individual's
20 blood for the presence of HIV, antigen or nonantigenic products of HIV, an antibody
21 to HIV, or other blood-borne pathogen.

22 (END)