

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-1092/3dn

DAK:kjf:nwn

November 7, 2007

To Representative Wasserman:

1. Under current law, “sexually transmitted disease” is defined under s. 252.11 (1), stats., to mean syphilis, gonorrhea, chlamydia, and other diseases the department (DHFS) includes by rule. The DHFS rule defining “sexually transmitted disease” (HFS 145.14 (4), Wis. Adm. Code) does not include AIDS or HIV; thus, HIV is not a “sexually transmitted disease” within the meaning of the statutes. Also, under current law, “communicable disease” is defined under s. 990.01 (5g), stats., to be “any disease that the department of health and family services determines, by rule, to be communicable in fact.” The DHFS rule defining “communicable disease” (HFS 145.03 (4), Wis. Adm. Code) refers to “...a disease or condition listed in Appendix A of Chapter HFS 145.” That Appendix lists AIDS and HIV in Category III; thus, AIDS and HIV are “communicable diseases” within the meaning of the statutes. Sections 938.296 (4) and 968.38 (4), stats., describe hearings to order a juvenile or an adult who has significantly exposed a victim to be tested for sexually transmitted disease or HIV; ss. 938.296 (5) and 968.38 (5), stats., describe hearings to order a juvenile or an adult who has significantly exposed a victim to be tested for communicable disease. Section 252.11 (5m) and (7), stats., refer to all of these statutes with respect to testing for sexually transmitted disease; therefore, I have in this draft deleted erroneous cross-references to s. 938.296 (5) and 968.38 (5) in s. 252.11 (5m) and (7), stats.

2. Please review the definition of “HIV test” created under s. 252.01 (2m). The language concerning medical sufficiency and sufficient reliability is taken from s. 252.13 (1r) (intro.), stats., which is correspondingly amended under this bill. I have added this language because, otherwise, it appears that HIV tests are not required to meet any standards. (Note that, because of the wording of this definition, I have not, in this bill, amended s. 252.15 (5r), stats.) Is this what you want?

3. I have defined “validated HIV test result” under s. 252.01 (8), stats. Note that most statutes in current law only refer to a “test” or a “test result,” not a “validated test result.” I have not changed these statutes, except for s. 252.13 (5), stats., assuming that you do not want the addition. Is that correct? Is the change that I have made what you want?

4. I have added “to the test subject” to s. 252.15 (7) (b) 5m., for clarification. Please review.

5. Section 252.15 (7m) (bg), stats., as requested, authorizes a local health officer to report a positive, validated test result obtained from a test subject to a person who is known to have been *or is likely to have been* significantly exposed; however, s. 252.15 (7m) (ag) (intro.) and 2., stats (as renumbered in the bill) only authorize the test subject's physician or advanced practice nurse to report to the local health officer the name of any person *known* to have been significantly exposed. This appears to be a conflict. How do you prefer that I resolve it?
6. Your instructions were to add "oral" to "consent" under s. 252.15 (1) (d). This has necessitated a restructuring of that paragraph and a change to the last (amending) sentence of s. 252.15 (2) (b), stats. Please review.
7. Should the requirement for two tests and prohibition on use in s. 252.15 (2) (am) 1. also apply to s. 252.15 (2) (am) 2., for the sake of consistency?
8. Did you want any of the civil liability limits under s. 252.15 (8), stats., to be increased?
9. Please review the Initial Applicability provision to ensure that it does what you want.
10. There seems to be a direct conflict about HIV test disclosure between s. 252.15 (2) (a) 7. c. and 7m., stats.; the first provision states that a health care provider may not disclose test results to an individual, and the second allows disclosure. Do you want to resolve this conflict?

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