
Wisconsin Legislative Council

ACT MEMO



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2021 Wisconsin Act 54 [2021 Senate Bill 99]

Testing for Communicable Diseases

Under current law, a person is guilty of a Class I felony if he or she throws or expels blood, semen, vomit, saliva, urine, feces, or other bodily substance (a bodily fluid) at or toward a public safety worker or a prosecutor if: (1) the person throws or expels a bodily fluid with the intent that it come into contact with the public safety worker or prosecutor; and (2) the public safety worker or prosecutor did not consent to the bodily fluids being thrown or expelled at or toward him or her. For the purposes of this section, a public safety worker is a medical services provider, an emergency medical responder, a peace officer, a firefighter, or a person operating or staffing an ambulance.

2021 Wisconsin Act 54 specifies that, during a criminal action for throwing or expelling bodily fluids at a public safety worker or a prosecutor, a district attorney must apply to the circuit court for an order requiring a defendant submit to a test or series of tests to detect the presence of communicable diseases if both of the following apply:

- The prosecutor has probable cause to believe the conduct that provided the basis for the charge carried a potential for transmitting a communicable disease to the victim or alleged victim, and involved the defendant's bodily fluids.
- The victim has requested that the district attorney apply for an order.

If, following a hearing on the request, the court finds probable cause to believe that the defendant's conduct carried a potential for transmitting a communicable disease to the victim or alleged victim and involved the defendant's bodily fluids, the court must order the defendant to submit to a test or series of tests administered by a health care professional to detect the presence of any communicable disease that was potentially transmitted by the act or alleged act of the defendant.

This requirement mirrors a similar statutory provision that requires a district attorney, when prosecuting a prisoner for throwing or expelling a bodily fluid at or toward an officer, employee, or visitor of the prison, to request a court order requiring the prisoner to submit to a test to detect the presence of a communicable disease.

Effective date: June 24, 2021

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