

1993 Assembly Bill 334

Date of enactment: April 6, 1994
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1993 WISCONSIN ACT 190

AN ACT *to amend* 252.14 (2) (intro.), 252.14 (2) (am), 252.14 (2) (bm), 252.15 (2) (a) 7. a., 252.15 (2) (a) 7. b., 252.15 (2) (a) 7. c. and 252.15 (5) (a) 18; and *to create* 252.15 (1) (ab), 252.15 (2) (a) 7. ai. and 252.15 (2) (a) 7. ak. of the statutes, **relating to:** permitting, in certain circumstances, peace officers, correctional officers, state patrol officers, jailers or keepers of jails or persons designated with custodial authority to request a court order requiring testing for the virus that causes acquired immunodeficiency syndrome and prohibiting certain discrimination by jailers, keepers of jails or certain persons designated with custodial authority.

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

SECTION 1. 252.14 (2) (intro.) of the statutes, as affected by 1993 Wisconsin Act 27, is amended to read:

252.14 (2) (intro.) No health care provider, peace officer, fire fighter, correctional officer, state patrol officer, jailer or keeper of a jail or person designated with custodial authority by the jailer or keeper, home health agency, inpatient health care facility or person who has access to a validated test result may do any of the following with respect to an individual who has acquired immunodeficiency syndrome or has a positive test for the presence of HIV, antigen or nonantigenic products of HIV or an antibody to HIV, solely because the individual has HIV infection or an illness or medical condition that is caused by, arises from or is related to HIV infection:

SECTION 2. 252.14 (2) (am) of the statutes, as affected by 1993 Wisconsin Act 27, is amended to read:

252.14 (2) (am) If a peace officer, fire fighter, correctional officer ~~or~~, state patrol officer, jailer or keeper of a jail or person designated with custodial authority by the jailer or keeper, refuse to provide services to the individual.

SECTION 3. 252.14 (2) (bm) of the statutes, as affected by 1993 Wisconsin Act 27, is amended to read:

252.14 (2) (bm) If a peace officer, fire fighter, correctional officer ~~or~~, state patrol officer, jailer or keeper of a

jail or person designated with custodial authority by the jailer or keeper, provide services to the individual at a standard that is lower than that provided other individuals with like service needs.

SECTION 4. 252.15 (1) (ab) of the statutes is created to read:

252.15 (1) (ab) "Affected person" means an emergency medical technician, fire fighter, peace officer, correctional officer, state patrol officer, jailer or keeper of a jail or person designated with custodial authority by the jailer or keeper.

SECTION 5. 252.15 (2) (a) 7. a. of the statutes, as affected by 1993 Wisconsin Act 27, is amended to read:

252.15 (2) (a) 7. a. ~~An~~ If all of the conditions under subd. 7. ai. to c. are met, an emergency medical technician, fire fighter, peace officer, correctional officer ~~or~~, state patrol officer, jailer or keeper of a jail or person designated with custodial authority by the jailer or keeper who ~~provides, during the course of providing care or services to an individual, who; or a peace officer, correctional officer, state patrol officer, jailer or keeper of a jail or person designated with custodial authority by the jailer or keeper who, while searching or arresting an individual or while controlling or transferring an individual in custody;~~ is significantly exposed to the individual ~~and who, at the time of exposure, was using recommended universal precautions, if any, against exposure,~~ may request the district attorney to apply to the circuit court for his or her

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county to order the individual to submit may subject the individual's blood to a test or a series of tests for the presence of HIV, antigen or nonantigenic products of HIV or an antibody to HIV and to disclose may receive disclosure of the results to the emergency medical technician, fire fighter, peace officer, correctional officer or state patrol officer. The emergency medical technician, fire fighter, peace officer, correctional officer or state patrol officer may not make the request unless he or she accompanies the request with an affidavit that certifies that he or she has been significantly exposed to the individual.

SECTION 6. 252.15 (2) (a) 7. ai. of the statutes is created to read:

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

SECTION 7. 252.15 (2) (a) 7. ak. of the statutes is created to read:

252.15 (2) (a) 7. ak. A physician, based on information provided to the physician, determines and certifies in writing that the affected person has been significantly exposed. The certification shall accompany the request for testing and disclosure. If the affected person who is significantly exposed is a physician, he or she may not make this determination or certification.

SECTION 8. 252.15 (2) (a) 7. b. of the statutes, as affected by 1993 Wisconsin Act 27, is amended to read:

252.15 (2) (a) 7. b. Upon receipt of a request and affidavit certification under subd. 7. a. the requirements of this subdivision, a district attorney shall, as soon as possible so as to enable the court to provide timely notice, apply to the circuit court for his or her county to order the individual to submit to a test or a series of tests as specified in subd. 7. a., administered by a health care profes-

sional, and to disclose the results of the test or tests as specified in subd. 7. c.

SECTION 9. 252.15 (2) (a) 7. c. of the statutes, as affected by 1993 Wisconsin Act 27, is amended to read:

252.15 (2) (a) 7. c. The court shall set a time for a hearing on the matter under subd. 7. a. within 20 days after receipt of an application a request under subd. 7. b. The court shall give the district attorney and the individual from whom a test is sought notice of the hearing at least 72 hours prior to the hearing. The individual may have counsel at the hearing, and counsel may examine and cross-examine witnesses. If the court finds probable cause to believe that the individual has significantly exposed the emergency medical technician, fire fighter, peace officer, correctional officer or state patrol officer affected person, the court shall, except as provided in subd. 7. d., order the individual to submit to a test or a series of tests for the presence of HIV, antigen or nonantigenic products of HIV, or an antibody to HIV or a sexually transmitted disease. The court shall require the health care professional who performs the test or series of tests to refrain from disclosing the test results to the individual and to disclose the test results of the test to the emergency medical technician, fire fighter, peace officer, correctional officer or state patrol officer affected person and his or her health care professional. No sample used for laboratory test purposes under this subd. 7. c. may disclose the name of the test subject.

SECTION 10. 252.15 (5) (a) 18. of the statutes, as affected by 1993 Wisconsin Act 27, is amended to read:

252.15 (5) (a) 18. To an emergency medical technician, fire fighter, peace officer, correctional officer or state patrol officer affected person, under the requirements of sub. (2) (a) 7.

SECTION 11. Effective date. This act takes effect on the day after publication or on January 1, 1994, whichever is later.