

An Act

ENROLLED HOUSE
BILL NO. 4041

By: McCall of the House

and

Bullard of the Senate

An Act relating to public health; amending 59 O.S. 2011, Section 396.27, which relates to notification to employees of risk exposure; requiring certain employee and transporter notification; amending 63 O.S. 2011, Section 1-502.3, which relates to confidential records and testing of persons with human immunodeficiency virus; requiring release of certain records and information to funeral directors and embalmers; providing for release of liability; amending 63 O.S. 2011, Section 1-523, which relates to institutions and treatment of infected inmates; requiring release of certain records and information; amending 63 O.S. 2011, Section 1-525, which relates to disclosure of confidential information; updating statutory references; providing for confidentiality of certain records; requiring certain notification; providing for codification; and providing an effective date.

SUBJECT: Public health

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 59 O.S. 2011, Section 396.27, is amended to read as follows:

Section 396.27 A. In handling and preparing dead human remains for final disposition, any person who comes in direct contact with an unembalmed dead human body or who enters a room where dead human bodies are being embalmed shall exercise all reasonable precautions to minimize the risk of transmitting any communicable disease from the body in accordance with federal regulations regarding the

control of infectious diseases and occupational and workplace health and safety.

B. Each funeral director shall notify employees concerning risk exposures pursuant to Section 1-502.3 of Title 63 of the Oklahoma Statutes and the rules and guidelines promulgated by the State Board of Health.

C. If a funeral director or embalmer has been notified that a deceased person has tested positive for human immunodeficiency virus (HIV), MRSA, hepatitis or any other communicable disease the funeral director or embalmer shall notify any person who may be transporting the body or preparing the body for burial or other disposition of the positive test.

SECTION 2. AMENDATORY 63 O.S. 2011, Section 1-502.3, is amended to read as follows:

Section 1-502.3 A. No person who withdraws or tests blood for human immunodeficiency virus (HIV), methicillin-resistant staphylococcus aureus (MRSA), hepatitis or any other communicable disease or employer of such person ~~nor~~ or any hospital or health care facility where blood is withdrawn or tested for ~~human immunodeficiency virus~~ HIV, MRSA, hepatitis or any other communicable disease shall incur any civil or criminal liability as a result of the proper withdrawal of blood or testing for ~~human immunodeficiency virus~~ HIV, MRSA, hepatitis or any other communicable disease when acting in compliance with the provisions of this section. The withdrawal or testing shall be performed in a reasonable manner, according to generally accepted standards of clinical practice. The person, employer or facility shall be presented with:

1. A written statement by the person whose blood is to be withdrawn and tested; or

2. A written statement from a health care or emergency care worker verifying that the health care or emergency care worker in an occupational setting has been exposed to the bodily fluids of the person whose blood is to be withdrawn and tested, which exposure placed the health care or emergency care worker at risk for transfer of the bodily fluids; or

3. An order from a court of competent jurisdiction that blood be withdrawn and tested.

When presented with such a statement or court order, the person authorized to withdraw the blood, the employer and the hospital or other health care facility where the withdrawal or testing occurs may rely on such statement or order as evidence that the person has consented to or has been required to submit to the clinical procedure and shall not be required to obtain any additional consent, acknowledgement or waiver form. In such case, the person authorized to perform the procedure, the employer of such person, and the hospital or other health care facility shall not be liable in any action alleging lack of consent or lack of informed consent.

B. No person specified in this section shall incur any civil or criminal liability for:

1. Providing results of the testing to:

- a. the person whose blood was tested,
- b. the person incurring the exposure, ~~or~~
- c. the funeral director or embalmer who will be or is preparing the body of a person who has been tested pursuant to this section for burial or other disposition, or
- d. the State Department of Health or such agency it may designate;

2. Not providing the results of the testing to any other person; or

3. Failing to diagnose or falsely diagnosing the presence of ~~the human immunodeficiency virus~~ HIV, MRSA, hepatitis or any other communicable disease where the procedure was performed in a reasonable manner according to generally accepted standards of clinical practice.

C. For the purposes of this section:

1. "Bodily fluids" means fluids which have been medically proven and medically accepted as transmitters or conductors of ~~human immunodeficiency virus~~ HIV, MRSA, hepatitis or any other communicable disease; and

