Model Legislation

Victims of Sexual Offenses Protection Act

Summary

This bill authorizes the prosecuting party to request a blood sample from the person charged with a sexual offense to determine whether or not the individual has the HIV virus. The department of Health will confidentially disclose the information to the victim of the sexual offense.

Model Legislation

{Title, enacting clause, etc.}

Section 1. This Act may be cited as the Victims of Sexual Offenses Protection Act.

Section 2. For the purpose of this Act the following definitions apply:

(A) “HIV” means the human immunodeficiency virus identified as the causative agent of acquired immune deficiency syndrome (AIDS) and includes all HIV-related viruses that damage the cellular branch of the human immune or neurological system and leave the infected person immunodeficient or neurologically impaired.

(B) “HIV test” means performing a medically recognized test or tests for the primary or ancillary purpose of determining the presence of HIV or its antibodies.

(C) “Victim” means a victim of an alleged assault or other criminal act in which it appears from the facts of the case involved that there may have been the transmission of bodily fluids from one person to another. The term “victim” shall include the parental or legal guardian of a minor who is the victim of an alleged sexual offense in which it appears from the facts of the case involved that there have been the transmission of bodily fluids from one person to another.

Section 3.

(A) Upon the written request of a victim of a sexual offense to the State’s Attorney, the person charged by indictment with committing that sexual offense shall furnish a blood sample to determine of the person charged has the human immunodeficiency virus (HIV).

(B) Promptly after receiving the request of the victim, the State’s Attorney shall inform the state Department of Health of the request.

(C) The state Department of Health shall have all blood samples obtained under Subsection (A) of this Section tested for the presence of HIV antibodies. Such testing will take place under a protocol of two ELISA tests and a confirmatory Western Blot test or an equally reliable screening or confirmatory test protocol as determined by the State Department of Health.

(D) The State Department of Health shall notify the victim of the results of the test performed under Subsection (A) of this Section. Such notification shall:

(1) be made within 48 hours of confirmation of the defendant’s test results;

(2) include subsequent written confirmation of possible exposure to HIV;

(3) be conducted in a manner that will protect the confidentiality of the victim; and

(4) to the extent possible, be conducted in a manner that will protect the confidentiality of the defendant.

Section 4. {Severability Clause.}

Section 5. {Repealer Clause.}

Section 6. {Effective Date.}
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