

Conference Engrossed

State of Arizona
Senate
Forty-fifth Legislature
Second Regular Session
2002

CHAPTER 312

SENATE BILL 1048

AN ACT

AMENDING SECTIONS 13-1210 AND 13-1415, ARIZONA REVISED STATUTES; AMENDING TITLE 32, CHAPTER 32, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 32-3206; RELATING TO DISEASE TESTING.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 13-1210, Arizona Revised Statutes, is amended to
3 read:

4 13-1210. Assaults on officers or fire fighters; disease
5 testing; petition; hearing; notice; definition

6 ~~A. A person who is charged in any criminal complaint in which it is~~
7 ~~alleged that the person interfered with the official duties of a law~~
8 ~~enforcement officer, correctional service officer, detention officer, private~~
9 ~~prison security officer or fire fighter by biting, scratching, spitting or~~
10 ~~transferring blood or other bodily fluids on or through the skin or membranes~~
11 ~~of a law enforcement officer, correctional service officer, detention~~
12 ~~officer, private prison security officer or fire fighter is subject to a~~
13 ~~court order requiring testing for the human immunodeficiency virus, common~~
14 ~~blood borne diseases or other diseases specified in the petition, for which~~
15 ~~there are reasonable grounds to believe an exposure occurred.~~

16 ~~B. A. The A law enforcement officer, PROBATION OFFICER, SURVEILLANCE~~
17 ~~OFFICER, correctional service officer, detention officer, private prison~~
18 ~~security officer, or fire fighter, EMERGENCY MEDICAL TECHNICIAN or the~~
19 ~~employing agency, officer or entity may petition the court for an order~~
20 ~~authorizing testing OF ANOTHER PERSON for the human immunodeficiency virus,~~
21 ~~common blood borne diseases or other diseases specified in the petition, for~~
22 ~~which IF there are reasonable grounds to believe an exposure occurred. AND~~
23 ~~EITHER OF THE FOLLOWING APPLIES:~~

24 1. THE PERSON IS CHARGED IN ANY CRIMINAL COMPLAINT AND THE COMPLAINT
25 ALLEGES THAT THE PERSON INTERFERED WITH THE OFFICIAL DUTIES OF THE LAW
26 ENFORCEMENT OFFICER, PROBATION OFFICER, SURVEILLANCE OFFICER, CORRECTIONAL
27 SERVICE OFFICER, DETENTION OFFICER, PRIVATE PRISON SECURITY OFFICER, FIRE
28 FIGHTER OR EMERGENCY MEDICAL TECHNICIAN BY BITING, SCRATCHING, SPITTING OR
29 TRANSFERRING BLOOD OR OTHER BODILY FLUIDS ON OR THROUGH THE SKIN OR MEMBRANES
30 OF THE LAW ENFORCEMENT OFFICER, PROBATION OFFICER, SURVEILLANCE OFFICER,
31 CORRECTIONAL SERVICE OFFICER, DETENTION OFFICER, PRIVATE PRISON SECURITY
32 OFFICER, FIRE FIGHTER OR EMERGENCY MEDICAL TECHNICIAN.

33 2. THERE IS PROBABLE CAUSE TO BELIEVE THAT THE PERSON INTERFERED WITH
34 THE OFFICIAL DUTIES OF THE LAW ENFORCEMENT OFFICER, PROBATION OFFICER,
35 SURVEILLANCE OFFICER, CORRECTIONAL SERVICE OFFICER, DETENTION OFFICER,
36 PRIVATE PRISON SECURITY OFFICER, FIRE FIGHTER OR EMERGENCY MEDICAL TECHNICIAN
37 BY BITING, SCRATCHING, SPITTING OR TRANSFERRING BLOOD OR OTHER BODILY FLUIDS
38 ON OR THROUGH THE SKIN OR MEMBRANES OF THE LAW ENFORCEMENT OFFICER, PROBATION
39 OFFICER, SURVEILLANCE OFFICER, CORRECTIONAL SERVICE OFFICER, DETENTION
40 OFFICER, PRIVATE PRISON SECURITY OFFICER, FIRE FIGHTER OR EMERGENCY MEDICAL
41 TECHNICIAN AND THAT THE PERSON IS DECEASED.

42 ~~C. B. The court shall hear the petition promptly. If the court finds~~
43 ~~that probable cause exists to believe that a possible transfer of blood or~~
44 ~~other bodily fluids occurred between the person charged and the law~~
45 ~~enforcement officer, PROBATION OFFICER, SURVEILLANCE OFFICER, correctional~~

1 service officer, detention officer, private prison security officer, or fire
2 fighter OR EMERGENCY MEDICAL TECHNICIAN, the court shall order that EITHER:

- 3 1. The person provide two specimens of blood for testing.
4 2. IF THE PERSON IS DECEASED, THE MEDICAL EXAMINER DRAW TWO SPECIMENS
5 OF BLOOD FOR TESTING.

6 C. NOTWITHSTANDING SUBSECTION B, PARAGRAPH 2 OF THIS SECTION, ON
7 WRITTEN NOTICE FROM THE AGENCY, OFFICER OR ENTITY EMPLOYING THE LAW
8 ENFORCEMENT OFFICER, PROBATION OFFICER, SURVEILLANCE OFFICER, CORRECTIONAL
9 SERVICE OFFICER, DETENTION OFFICER, PRIVATE PRISON SECURITY OFFICER, FIRE
10 FIGHTER OR EMERGENCY MEDICAL TECHNICIAN, THE MEDICAL EXAMINER IS AUTHORIZED
11 TO DRAW TWO SPECIMENS OF BLOOD FOR TESTING DURING THE AUTOPSY OR OTHER
12 EXAMINATION OF THE DECEASED PERSON'S BODY. THE MEDICAL EXAMINER SHALL
13 RELEASE THE SPECIMEN TO THE EMPLOYING AGENCY, OFFICER OR ENTITY FOR TESTING
14 ONLY AFTER THE COURT ISSUES ITS ORDER PURSUANT TO SUBSECTION B, PARAGRAPH 2
15 OF THIS SECTION. IF THE COURT DOES NOT ISSUE AN ORDER WITHIN THIRTY DAYS
16 AFTER THE MEDICAL EXAMINER COLLECTS THE SPECIMEN, THE MEDICAL EXAMINER SHALL
17 DESTROY THE SPECIMEN.

18 D. Notice of the test results shall be provided as prescribed by the
19 department of health services to the person tested, to the law enforcement
20 officer, PROBATION OFFICER, SURVEILLANCE OFFICER, correctional service
21 officer, detention officer, private prison security officer, or fire fighter
22 OR EMERGENCY MEDICAL TECHNICIAN named in the petition and to the officer's,
23 or fire fighter's OR EMERGENCY MEDICAL TECHNICIAN'S employing agency, officer
24 or entity and, if the person tested is incarcerated or detained, to the
25 officer in charge and the chief medical officer of the facility in which the
26 person is incarcerated or detained.

27 E. ~~The provisions of Section 36-665 do~~ DOES not apply to this section.

28 F. For THE purposes of this section, "private prison security officer"
29 means a security officer WHO IS employed by a private contractor that
30 contracts with a governmental entity to provide detention or incarceration
31 facility services for offenders.

32 Sec. 2. Section 13-1415, Arizona Revised Statutes, is amended to read:

33 13-1415. Human immunodeficiency virus and sexually transmitted
34 disease testing; victim's rights; petition;
35 definitions

36 A. A defendant, including a defendant who is a minor, who is alleged
37 to have committed a sexual offense or another offense involving significant
38 exposure is subject to a court order that requires the defendant to submit
39 to a test TESTING for the human immunodeficiency virus AND OTHER SEXUALLY
40 TRANSMITTED DISEASES and to consent to the release of the test result RESULTS
41 to the victim.

42 B. Pursuant to subsection A of this section, the prosecuting attorney,
43 if requested by the victim, or, if the victim is a minor, by the parent or
44 guardian of the minor, shall petition the court for an order requiring that
45 the person submit a specimen, to be determined by the submitting entity, for

1 laboratory testing by the department of health services or another licensed
2 laboratory for the presence of the human immunodeficiency virus AND OTHER
3 SEXUALLY TRANSMITTED DISEASES. The court shall, within ten days, SHALL
4 determine if sufficient evidence exists ~~that indicates~~ TO INDICATE that
5 significant exposure occurred. If the court makes this finding or the act
6 committed against the victim is a sexual offense it shall order that the test
7 TESTING be performed in compliance with rules adopted by the department of
8 health services. The prosecuting attorney shall provide the victim's name
9 and last known address of record to the department of health services for
10 notification purposes. The victim's name and address are confidential,
11 except that the department of health services may disclose the information
12 to a local health department for victim notification purposes.

13 C. After a specimen has been tested for ~~the presence of human~~
14 ~~immunodeficiency virus~~ pursuant to subsection B of this section, the
15 laboratory that performed the test shall report the results to the submitting
16 entity.

17 D. The submitting entity shall provide the results to the department
18 of health services or a local health department. The department of health
19 services or a local health department shall notify the victim of the results
20 of the test conducted pursuant to subsection B of this section and shall
21 counsel the victim regarding the health implications of the results.

22 E. The submitting entity or the department of health services shall
23 notify the person tested of the results of the test conducted pursuant to
24 subsection B of this section and shall counsel the person regarding the
25 health implications of the results. If the submitting entity does not notify
26 the person tested of the test results, the submitting entity shall provide
27 both the name and last known address of record of the person tested and the
28 test results to the department of health services or a local health
29 department for notification purposes.

30 F. Notwithstanding any other law, copies of the test results shall be
31 provided only to the victim of the crime, the person tested, the submitting
32 entity and the department of health services.

33 G. For the purposes of this section:

34 1. "Sexual offense" means oral sexual contact, sexual contact or
35 sexual intercourse as defined in section 13-1401.

36 2. "SEXUALLY TRANSMITTED DISEASES" MEANS:

37 (a) CHLAMYDIA.

38 (b) GENITAL HERPES.

39 (c) GONORRHEA.

40 (d) SYPHILIS.

41 (e) TRICHOMONAS.

42 3. "Significant exposure" means contact of the victim's ruptured
43 or broken skin or mucous membranes with a person's blood or body fluids,
44 other than tears, saliva or perspiration, of a magnitude that the centers for

1 disease control have epidemiologically demonstrated can result in
2 transmission of the human immunodeficiency virus.

3 3. 4. "Submitting entity" means one of the following:

- 4 (a) A local health department.
- 5 (b) A health unit of the state department of corrections.
- 6 (c) A health unit of any detention facility.
- 7 (d) A physician licensed pursuant to title 32, chapter 13, 17 or 29.

8 Sec. 3. Title 32, chapter 32, article 1, Arizona Revised Statutes, is
9 amended by adding section 32-3206, to read:

10 32-3206. Health professionals blood borne disease hazard;
11 disease testing; petition; definition

12 A. A HEALTH PROFESSIONAL MAY PETITION THE COURT TO ALLOW FOR THE
13 TESTING OF A PATIENT OR DECEASED PERSON IF THERE IS PROBABLE CAUSE TO BELIEVE
14 THAT IN THE COURSE OF THAT HEALTH PROFESSIONAL'S PRACTICE THERE WAS A
15 SIGNIFICANT EXPOSURE.

16 B. THE COURT SHALL HEAR THE PETITION PROMPTLY. IF THE COURT FINDS
17 THAT PROBABLE CAUSE EXISTS TO BELIEVE THAT SIGNIFICANT EXPOSURE OCCURRED
18 BETWEEN THE PATIENT OR DECEASED PERSON AND THE HEALTH PROFESSIONAL, THE COURT
19 SHALL ORDER THAT EITHER:

20 1. THE PERSON WHO TRANSFERRED BLOOD OR BODILY FLUIDS ONTO THE HEALTH
21 PROFESSIONAL PROVIDE TWO SPECIMENS OF BLOOD FOR TESTING.

22 2. IF THE PERSON IS DECEASED, THE MEDICAL EXAMINER DRAW TWO SPECIMENS
23 OF BLOOD FOR TESTING.

24 C. ON WRITTEN NOTICE FROM THE EMPLOYER OF THE HEALTH PROFESSIONAL, THE
25 MEDICAL EXAMINER IS AUTHORIZED TO DRAW TWO SPECIMENS OF BLOOD FOR TESTING
26 DURING THE AUTOPSY OR OTHER EXAMINATION OF THE DECEASED PERSON'S BODY. THE
27 MEDICAL EXAMINER SHALL RELEASE THE SPECIMEN TO THE EMPLOYING AGENCY OR ENTITY
28 FOR TESTING ONLY AFTER THE COURT ISSUES ITS ORDER PURSUANT TO SUBSECTION B.
29 IF THE COURT DOES NOT ISSUE AN ORDER WITHIN THIRTY DAYS AFTER THE MEDICAL
30 EXAMINER COLLECTS THE SPECIMEN, THE MEDICAL EXAMINER SHALL DESTROY THE
31 SPECIMEN.

32 D. NOTICE OF THE TEST RESULTS SHALL BE PROVIDED AS PRESCRIBED BY THE
33 DEPARTMENT OF HEALTH SERVICES TO THE PERSON TESTED, THE HEALTH PROFESSIONAL
34 NAMED IN THE PETITION AND THE HEALTH PROFESSIONAL'S EMPLOYER. IF THE PERSON
35 IS INCARCERATED OR DETAINED, THE NOTICE SHALL ALSO BE PROVIDED TO THE CHIEF
36 MEDICAL OFFICER OF THE FACILITY IN WHICH THE PERSON IS INCARCERATED OR
37 DETAINED.

38 E. FOR THE PURPOSES OF THIS SECTION, "SIGNIFICANT EXPOSURE" MEANS
39 CONTACT OF A PERSON'S RUPTURED OR BROKEN SKIN OR MUCOUS MEMBRANES WITH
40 ANOTHER PERSON'S BLOOD OR BODILY FLUID, OTHER THAN TEARS, SALIVA OR
41 PERSPIRATION, OF A MAGNITUDE THAT THE CENTERS FOR DISEASE CONTROL OF THE
42 UNITED STATES PUBLIC HEALTH SERVICE HAVE EPIDEMIOLOGICALLY DEMONSTRATED CAN
43 RESULT IN THE TRANSMISSION OF BLOOD BORNE OR BODILY FLUID CARRIED DISEASES.

APPROVED BY THE GOVERNOR MAY 28, 2002.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 29, 2002.

Passed the House April 25, 2002,

by the following vote: 53 Ayes,

0 Nays, 7 Not Voting

[Signature]
Speaker of the House

[Signature]
Chief Clerk of the House

Passed the Senate February 11, 2002,

by the following vote: 27 Ayes,

0 Nays, 3 Not Voting

[Signature]
President of the Senate

[Signature]
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

~~_____ day of _____, 20____,~~

~~at _____ o'clock _____ M.~~

~~_____
Secretary to the Governor~~

Approved this _____ day of

~~_____, 20____,~~

~~at _____ o'clock _____ M.~~

~~_____
Governor of Arizona~~

S.B. 1048

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

~~this _____ day of _____, 20____,~~

~~at _____ o'clock _____ M.~~

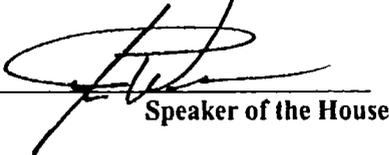
~~_____
Secretary of State~~

HOUSE FINAL PASSAGE
as per Joint Conference

Passed the House May 20, 2002,

by the following vote: 56 Ayes,

0 Nays, 4 Not Voting


Speaker of the House

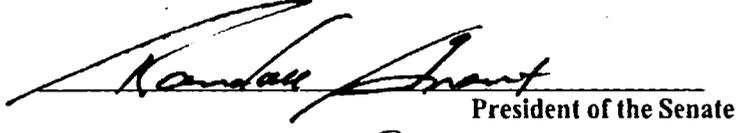

Chief Clerk of the House

SENATE FINAL PASSAGE
as per Joint Conference

Passed the Senate May 15, 2002,

by the following vote: 26 Ayes,

0 Nays, 4 Not Voting


President of the Senate

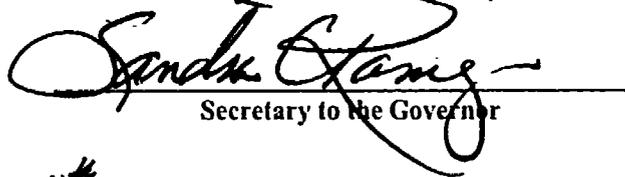

Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor

this 21 day of May, 2002

at 10:21 o'clock A M.


Secretary to the Governor

Approved this 28th day of

May, 2002,

at 10:43 o'clock A M.

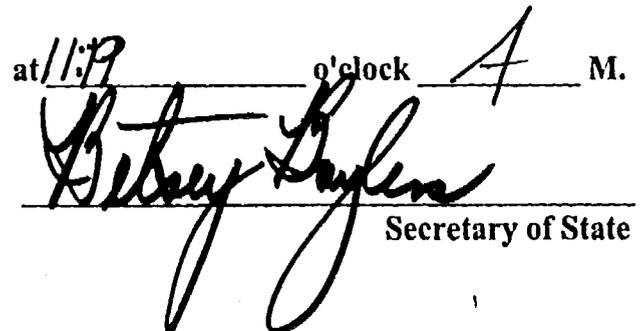

Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 29 day of May, 2002,

at 11:19 o'clock A M.


Secretary of State

S.B. 1048