



Legislative Council Staff

Research Note

Version: Final

Date: 10/19/2016

Bill Number

Senate Bill 16-146

Sponsors

Senator Steadman
Representative Esgar

Short Title

***Modernize Statutes Sexually
Transmitted Infections***

Research Analyst

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Status

This research note reflects the final version of the bill, which was signed by the Governor on June 6, 2016, and became effective on July 1, 2016.

Summary

This bill updates state law concerning sexually transmitted infections (STIs) and allows for all STIs to be treated uniformly. It removes language specifically criminalizing HIV infection.

STI reporting. It directs the State Board of Health (board), within the Colorado Department of Public Health and Environment (CDPHE), to adopt rules to implement the bill, including rules addressing the control and treatment of STIs. These rules must specify the information that must be reported to the board, CDPHE, or a local public health agency, and the performance and standards for anonymous and confidential HIV counseling and testing. Mandatory reporters of STIs include every health care provider in the state; persons who test, diagnose, or treat STIs in a hospital, clinic, correctional institution, or other institution; and a laboratory or person performing a test for a case of an STI. A person who, in good faith, complies with the reporting and treatment requirements is immune from civil and criminal liability for such actions. The bill clarifies the confidentiality of reports and provides procedures, under limited circumstances, for releasing information.

Infection control. The bill clarifies that it is the duty of CDPHE staff and local public health officials to investigate STIs and to use appropriate means to prevent their spread. When a public safety worker; emergency service provider; health care provider; first responder; crime victim; or staff member of a correctional facility, the CDPHE, or a local public health agency has been exposed to blood or other bodily fluids for which there is an evidence-based reason to suspect may lead to exposure to an STI, the CDPHE or local public health agency is to assist in the evaluation

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and treatment of those persons, including providing counseling. A minor may seek a consultation, examination, or treatment for an STI without parental consent. Services provided to minors are confidential, although if the minor is 13 or younger, the health care provider may involve the minor's parent or legal guardian. Except as specified, no specimen of a patient may be tested for an STI without his or her knowledge and consent. Persons who test positive for STIs are to be informed of their results and be provided counseling on measures for preventing transmission to others.

Public health orders. The bill directs that cease and desist orders and other restrictive measures directed toward a person with an STI be issued as a last resort, provided certain conditions have been met. Under the bill, if a person who is the subject of a cease and desist order refuses to comply with the order and public health officials, the public health officials, through the county attorney or Attorney General, may petition the district court for an order of compliance. If the public health official does not petition the district court within 30 days after the person who is the subject of the order refuses to comply, that person can petition the district court for dismissal and expungement of the order. The bill prohibits a public health officer or employee from being examined by any judicial, legislative, executive, or other proceeding as to the existence or content of any individual's report.

Public health injunctions. If a public health official believes that a person with an STI presents an imminent risk to the public health, they may bring an action in district court to enjoin the person from engaging in certain conduct. In these instances, the district attorney or the Attorney General, if the district attorney does not act, may file the case.

New criminal penalties. Failure to file a mandatory public health report is a class 2 petty offense, punishable by a fine of not more than \$300. A breach of confidential health care information is an unclassified misdemeanor, punishable by a fine of between \$500 and \$5,000, a term in county jail of 6 to 24 months, or both.

Repealed crimes and sentencing. Under current law, an individual committing a sex offense with the knowledge of having HIV is sentenced to an indeterminate sentence of at least three times the upper limit of the presumptive range for the level of offense committed, up to natural life. This bill clarifies that the term is the upper limit of the presumptive range for the level of offense committed, up to natural life. The bill repeals the crimes of engaging in prostitution with knowledge of being infected with AIDS (class 5 felony) and patronizing a prostitute with knowledge of being affected with AIDS (class 6 felony).

Crime victims. Under the bill, victims of crimes have the right to made aware of the results of any court ordered STI test, not just HIV status, upon their request.

Background

Prior to the enactment of SB 16-146, Colorado law declared that STIs were contagious and dangerous to the public health. The definition of an STI explicitly included syphilis and gonorrhea, as well as any other type of STI designated as contagious by the board. AIDS, HIV infections, and HIV-related illness were governed solely by Title 25, Article 18, Part 4.

Senate Action

Senate Judiciary Committee (March 16 and April 26, 2016). At its March 16 meeting, the committee received testimony in support of the bill from Colorado Organizations Responding to AIDS, CDPHE, the Colorado Association of Local Public Health Officials, and the Colorado Mod Squad. Neutral testimony on the bill was provided by representatives of the Colorado District Attorneys' Council, the Colorado Attorney General's Office, and the Colorado Organization for

Victim Assistance. At its April 26 meeting, the committee adopted amendments L.009, L.011, and L.013, and referred the bill, as amended, to the Senate Committee of the Whole.

Amendment L.009 exempts preventative services from the prohibition on making parental consent a prerequisite for the treatment of an STI, and requires the involvement of the parent or guardian if the minor being treated for an STI is under the age of 13.

Amendment L.011 makes the following changes to the bill:

- clarifies the definition of "local director" as it relates to STIs;
- requires the board to promulgate rules concerning certain public health procedures;
- clarifies when information in certain records related to STIs may be released, including to a district attorney for use in certain court proceedings;
- states a duty for certain public health officials to provide STI-related professional education and consultation to public safety workers and organizations;
- requires health agencies to assist in determining when certain individuals, including victims of a sexual offense involving penetration, may have been exposed to an STI;
- permits STI prevention services for minors without a prerequisite of parental consent;
- clarifies when consent is not necessary for specimens from certain public workers to be tested for an STI;
- removes from the board the authority to trigger certain public health measures to be directed to a person with an STI, and in the event the person does not comply with the order, permits only the executive director of CDPHE to file a petition in a district court for an order of compliance or an injunction, and prohibits courts from examining certain health officials about STI reports;
- clarifies that a sex offender is subject to indeterminate sentencing if the offender had notice that he or she had tested positive for HIV infection and, as amended by L.013, that the infectious agent of HIV was in fact transmitted;
- clarifies provisions in existing law related to testing persons charged with certain sexual offenses for STIs, including the burdens placed on district attorneys to prove certain HIV-related facts; and
- makes other clarifying and technical amendments.

Senate second reading (April 29, 2016). The Senate Committee of the Whole adopted amendment L.015 to the Senate Judiciary Committee report and adopted the report, as amended. Amendment L.015 requires parental consent as a prerequisite for STI prevention services for minors. The committee of the whole passed the bill, as amended, on second reading.

Senate third reading (May 2, 2016). The Senate passed the bill on third reading.

Senate consideration of House amendments (May 11, 2016). The Senate concurred with the House amendments and repassed the bill.

House Action

House Judiciary Committee (May 3, 2016). Without a hearing, the committee referred the bill to the House Public Health Care and Human Services Committee.

House PHC&HS Committee (May 6, 2016). The committee received testimony in support of the bill from representatives of Stigma, the Colorado Mod Squad, CDPHE, the Colorado

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Association of Local Public Health Officials, and Colorado Organizations Responding to AIDS. The committee adopted amendments L.017 and L.018, and referred the bill, as amended, to the House Committee of the Whole.

Amendment L.017 permits minors to receive STI preventative services without prerequisite consent from a parent or guardian, and makes permissive a health care provider involving the parent or guardian if a minor being treated for an STI is under the age of 13. Amendment L.018 prohibits STI investigation, identification, testing, prevention, and treatment programs from discriminating based on age.

House second reading (May 9, 2016). The House Committee of the Whole adopted the House PHC&HS Committee report, and passed the bill on second reading.

House third reading (May 10, 2016). The House adopted third reading amendment L.020, which clarifies that STI-related diagnostic examination, care, prevention services, or treatment provided to a minor is confidential, and passed the bill on third reading.

Relevant Research

Colorado Department of Health and Environment, *Sexually Transmitted Diseases and HIV*, webpage: <https://www.colorado.gov/pacific/cdphe/sti-hiv>.