

1 **State of Arkansas**
2 **78th General Assembly**
3 **Regular Session, 1991**
4 **By: Representative Landers**

A Bill

HOUSE BILL 1339

For An Act To Be Entitled

"THE HIV SHIELD LAW."

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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12 SECTION 1. As used in this act:

13 (1) "Health care provider" means any physician, nurse, paramedic, or
14 other person providing medical, nursing, or other health care services of any
15 kind.

16 (2) "Health facility" means a hospital, nursing home, blood banks,
17 blood center, sperm bank, or other health care institution.

18 (3) "HIV" means the Human Immunodeficiency virus or any other
19 identified causative agent of Acquired Immunodeficiency Syndrome (AIDS).

20 (4) "Person" includes any natural person, partnership, association,
21 joint venture, trust, governmental entity, public or private corporation,
22 health facility or other legal entity.

23 (5) "Test" or "HIV test" means a test to determine the presence of the
24 antibody or antigen to HIV, or of HIV infection.

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26 SECTION 2. *Informed* consent is not required for a health care provider
27 or health facility to perform a test when a health care provider or employee
28 of a health facility is involved in a direct skin or mucous membrane contact
29 with the blood or bodily fluids of an individual which is of a nature that may
30 transmit HIV, as determined by a physician in his medical judgement. The
31 results of the test shall be provided by the person *ordering* the test to the
32 affected health care provider or employee of a health facility, to the health
33 care provider's or employee's physician, to the patient, and to the patient's
34 physician. Appropriate counseling along with the test results shall be
35 provided.

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SECTION 3. *Informed consent, information and counseling are not required for the performance of an HIV test when in the judgement of the physician, such testing is medically indicated to provide appropriate diagnosis and treatment to the subject of the test, provided that the subject of the test has otherwise provided his or her consent to such physician for medical treatment. If confirmatory testing is positive for evidence of HIV infection, the patient shall be informed.*

SECTION 4. (a) Nothing in this act shall be construed to impose civil liability or criminal sanction for performing a test without written informed consent pursuant to the provisions of Section 2 or Section 3 of this act.

(b) Nothing in this act shall be construed to impose civil liability or criminal sanction for disclosure of a test result in accordance with the provisions of Section 2 of this act, *provided, however, that nothing in this act shall be construed to limit the confidentiality provided by Ark. Code Ann. §20-15-901 for AIDS testing unless testing is conducted pursuant to this act.*

SECTION 5. *Health care providers or facilities may not deny appropriate care based upon the results of an HIV test.*

SECTION 6. All provisions of this act of a general and permanent nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code Revision Commission shall incorporate the same in the Code.

SECTION 7. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

SECTION 8. All laws and parts of laws in conflict with this act are hereby repealed.

SECTION 9. EMERGENCY It is hereby found and determined by the Seventy-Eighth General Assembly of the State of Arkansas that health care

1 providers require early information relating to the HIV status of patients
2 when a physician determines that obtaining and providing such information is
3 medically indicated; that such information is necessary to protect the public
4 health from the spread of HIV; and that this act should go into effect
5 immediately in order to better protect the public health from HIV infection.
6 Therefore, an emergency is hereby declared to exist and this act being
7 necessary for the immediate preservation of the public peace, health and
8 safety shall be in full force from and after its passage and approval.

9 */s/ L. Landers*

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