

1 **State of Arkansas**
2 **79th General Assembly**
3 **Regular Session, 1993**
4 **By: Representative Willems**

A Bill

HOUSE BILL

For An Act To Be Entitled

8 "AN ACT TO AMEND ARKANSAS CODE ANNOTATED §16-82-101 TO
9 AUTHORIZE THE COURT UNDER CERTAIN CIRCUMSTANCES TO REQUIRE
10 PERSONS ARRESTED AND CHARGED WITH CERTAIN CRIMINAL
11 OFFENSES TO BE TESTED FOR THE PRESENCE OF HIV; AND FOR
12 OTHER PURPOSES."

Subtitle

14 "RELATING TO HIV TESTING OF PERSONS CHARGED WITH CERTAIN
15 OFFENSES."
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18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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20 SECTION 1. Arkansas Code Annotated §16-82-101 is amended to read as
21 follows:

22 "16-82-101. Testing for human immunodeficiency virus.

23 (a) A person with Acquired Immunodeficiency Syndrome (AIDS) or who
24 tests positive for the presence of Human Immunodeficiency Virus (HIV) antigen
25 or antibodies is infectious to others through the exchange of body fluids
26 during sexual intercourse and through the parenteral transfer of blood or
27 blood products and under these circumstances is a danger to the public.

28 (b)(1) The Court having jurisdiction of the criminal prosecution of a
29 person arrested and charged with violating Sections 5-4-103 through 5-4-109,
30 5-4-120 through 5-4-122, or 5-70-102, may require the person so charged to be
31 tested for the presence of HIV or any antibody to HIV if the person pleads
32 guilty or nolo contendere, or subject to constitutional limitations if the
33 court finds that there is reasonable cause to believe that the person
34 committed the offense.

35 (2) The test shall be confidentially administered by a licensed

1 physician, the Department of Health, or a local health department.

2 (c) If the victim or person with whom the defendant engaged in sexual
3 penetration during the course of the crime consents, the court shall provide
4 the person or agency administering the test with the name, address, and
5 telephone number of the victim or person with whom the defendant engaged in
6 sexual penetration during the course of the crime. After the defendant is
7 tested as to the presence of HIV or an antibody to HIV, the person or agency
8 administering the test shall immediately provide the test results to the
9 victim or person with whom the defendant engaged in sexual penetration during
10 the course of the crime, and shall refer the victim or other person for
11 appropriate counseling."

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13 SECTION 2. All provisions of this act of a general and permanent nature
14 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
15 Revision Commission shall incorporate the same in the Code.

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17 SECTION 3. If any provision of this act or the application thereof to
18 any person or circumstance is held invalid, such invalidity shall not affect
19 other provisions or applications of the act which can be given effect without
20 the invalid provision or application, and to this end the provisions of this
21 act are declared to be severable.

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23 SECTION 4. All laws and parts of laws in conflict with this act are
24 hereby repealed.

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