

1 **State of Arkansas**
2 **79th General Assembly**
3 **Regular Session, 1993**

A Bill

ACT 438 OF 1993
HOUSE BILL 1343

4 **By: Representatives Wyrick, M. Wilson, Blair, Mullenix, Hunton, Young**

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For An Act To Be Entitled

8 "AN ACT TO CREATE A PROVISION FOR THE TESTING OF CERTAIN
9 PERSONS WHO, DURING THE COMMISSION OF A CRIME, ENGAGE IN
10 CONDUCT AGAINST A LAW ENFORCEMENT OFFICER, FIREFIGHTER OR
11 EMERGENCY MEDICAL TECHNICIAN WHICH CAUSED OR COULD
12 REASONABLY HAVE CAUSED THE TRANSFER OF BODILY FLUIDS."

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Subtitle

15 "TO CREATE A PROVISION FOR THE TESTING OF CERTAIN PERSONS
16 WHO DURING THE COMMISSION OF A CRIME MAY HAVE TRANSFERRED
17 BODILY FLUIDS."

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

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21 SECTION 1. A person with Acquired Immunodeficiency Syndrome (AIDS) or
22 who tests positive for the presence of Human Immunodeficiency Virus (HIV)
23 antigen or antibodies, or Hepatitis is infectious to law enforcement officers,
24 firefighters and emergency medical technicians through the exchange of body
25 fluids during the course of their duties and through the possible transfer of
26 blood or blood products and under these circumstances is a danger to the
27 public.

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29 SECTION 2. (1) Any person arrested and charged with violating any
30 Section of Chapter 13, Arkansas Criminal Code, by committing an assault or
31 battery upon a law enforcement officer, firefighter or emergency medical
32 technician, may be required by a court of competent jurisdiction, upon a
33 finding of reasonable cause to believe that the person committed the offense
34 and subject to constitutional limitations, to be tested for the presence of
35 HIV or any antibody to HIV, or Hepatitis unless the court determines that
36 testing the defendant would be inappropriate and documents the reasons for

1 that determination in the court record.

2 (2) The test shall be confidentially administered by a licensed
3 physician, the Department of Health, or a local health department.

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5 SECTION 3. If the law enforcement officer, firefighter or emergency
6 medical technician (victim) with whom the defendant engaged in contact
7 consents, the court shall provide the person or agency administering the test
8 with the name, address, and telephone number of the victim. After the
9 defendant is tested as to the presence of HIV or an antibody to HIV, or
10 Hepatitis the person or agency administering the test shall immediately
11 provide the test results to the victim with whom the defendant engaged in
12 contact, and shall refer the victim or other person for appropriate
13 counseling.

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15 SECTION 4. All provisions of this act of a general and permanent nature
16 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
17 Revision Commission shall incorporate the same in the Code.

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19 SECTION 5. If any provision of this act or the application thereof to
20 any person or circumstance is held invalid, such invalidity shall not affect
21 other provisions or applications of the act which can be given effect without
22 the invalid provision or application, and to this end the provisions of this
23 act are declared to be severable.

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25 SECTION 6. All laws and parts of laws in conflict with this act are
26 hereby repealed.

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28 SECTION 7. EMERGENCY. It is hereby found and determined by the General
29 Assembly of the State of Arkansas that a person with Acquired Immunodeficiency
30 Syndrome (AIDS), or Human Immunodeficiency Virus (HIV) antigen or antibodies,
31 or Hepatitis who acts irresponsibly with respect to contact with officials
32 performing their official duties constitutes a deadly threat to the public and
33 health and welfare of the people of the State of Arkansas; that the incidence
34 of Acquired Immunodeficiency Syndrome (AIDS), Human Immunodeficiency Virus
35 (HIV), or Hepatitis is increasing at an alarming rate and that these diseases

1 result in enormous social, health and economic costs, ultimately causing
2 premature death of many persons afflicted with these diseases. Therefore, an
3 emergency is hereby declared to exist and this act being necessary for the
4 immediate preservation of the public peace, health, and safety, shall be in
5 full force and effect from and after its passage and approval.

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APPROVED: 03/10/93

