S T A T E O F N E W Y O R K

2795

2009-2010 Regular Sessions

I N A S S E M B L Y

January 21, 2009

Introduced by M. of A. FITZPATRICK, FINCH, BALL, McKEVITT, KOLB, WALKER -- Multi-Sponsored by -- M. of A. CORWIN, CROUCH -- read once and referred to the Committee on Health

AN ACT to amend the public health law, in relation to requiring notification to peace officers and other paid or volunteer emergency personnel of exposure to HIV infected persons

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. The public health law is amended by adding a new section 2313 to read as follows:

S 2313. NOTIFICATION TO PEACE OFFICERS, FIREFIGHTERS, AMBULANCE WORKERS AND OTHERS OF EXPOSURE TO THE HUMAN IMMUNODEFICIENCY VIRUS (HIV). 1. WHILE TREATING OR TRANSPORTING AN ILL OR INJURED PATIENT TO A MEDICAL CARE FACILITY OR WHILE ACTING IN THE PERFORMANCE OF DUTY, IF A PEACE OFFICER OR A PAID OR VOLUNTEER FIREFIGHTER, EMERGENCY MEDICAL TECHNICIAN, RESCUE SQUADMAN OR AMBULANCE WORKER COMES INTO CONTACT WITH A PATIENT WHO HAS THE HUMAN IMMUNODEFICIENCY VIRUS (HIV), AS A RESULT OF INFORMATION OBTAINED BY THE FACILITY, THE ATTENDING PHYSICIAN, MEDICAL EXAMINER, A DESIGNEE OF THE MEDICAL CARE FACILITY WHO RECEIVES THE PATIENT, THE CHIEF MEDICAL EXAMINER, OR THE CHIEF MEDICAL EXAMINER'S DESIGNEE SHALL NOTIFY SUCH PERSON, AND THE EMPLOYER OR EMPLOYER'S DESIGNEE OF THE INDIVIDUAL'S POSSIBLE EXPOSURE TO THE CONTAGIOUS DISEASE OR VIRUS.

2. THE NOTIFICATION REQUIRED UNDER THIS SECTION SHALL:

(A) BE MADE WITHIN FORTY-EIGHT HOURS, OR SOONER, OF CONFIRMATION OF THE PATIENT'S DIAGNOSIS;

(B) INCLUDE SUBSEQUENT WRITTEN CONFIRMATION OF POSSIBLE EXPOSURE TO HIV;

(C) BE CONDUCTED IN A MANNER THAT WILL PROTECT THE CONFIDENTIALITY OF THE PATIENT; AND

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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(D) TO THE EXTENT POSSIBLE, BE CONDUCTED IN A MANNER THAT WILL PROTECT THE CONFIDENTIALITY OF THE PERSON SO EXPOSED.

3. THE WRITTEN CONFIRMATION REQUIRED UNDER THIS SECTION SHALL CONSTITUTE COMPLIANCE WITH THIS SECTION.

4. EACH MEDICAL CARE FACILITY SHALL DEVELOP WRITTEN PROCEDURES FOR THE IMPLEMENTATION OF THIS SECTION, AND, UPON REQUEST, MAKE COPIES AVAILABLE TO THE LOCAL FIRE AUTHORITY, THE LOCAL FIRE AUTHORITY'S DESIGNEE AND THE LOCAL LAW ENFORCEMENT AUTHORITY OR THE LOCAL LAW ENFORCEMENT AUTHORITY'S DESIGNEE AND THE PUBLIC AT-LARGE.

5. A MEDICAL CARE FACILITY, PHYSICIAN, CHIEF MEDICAL EXAMINER OR THE CHIEF MEDICAL EXAMINER'S DESIGNEE ACTING IN GOOD FAITH TO PROVIDE NOTIFICATION IN ACCORDANCE WITH THIS SECTION SHALL NOT BE LIABLE IN ANY CAUSE OF ACTION RELATED TO THE BREACH OF PATIENT CONFIDENTIALITY.

6. A MEDICAL CARE FACILITY, PHYSICIAN, CHIEF MEDICAL EXAMINER, OR THE CHIEF MEDICAL EXAMINER'S DESIGNEE ACTING IN GOOD FAITH TO PROVIDE NOTIFICATION IN ACCORDANCE WITH THIS SECTION SHALL NOT BE LIABLE IN ANY CAUSE OF ACTION FOR:

(A) THE FAILURE TO GIVE THE REQUIRED NOTICE, IF THE PERSON SO EXPOSED FAILS TO PROPERLY INITIATE THE NOTIFICATION PROCEDURES DEVELOPED BY THE HEALTH CARE FACILITY UNDER THIS SECTION; OR

(B) THE FAILURE OF THE EMPLOYER OR EMPLOYER'S DESIGNEE TO SUBSEQUENTLY NOTIFY THE PERSON SO EXPOSED OF THE POSSIBLE EXPOSURE TO HIV.

7. AN EXPOSED PERSON SHALL RECEIVE FROM HIS OR HER EMPLOYERS OR LOCAL GOVERNMENTAL BODIES, AT THE EXPENSE OF THE EMPLOYER OR LOCAL GOVERNMENTAL BODY, AS PART OF HIS OR HER TRAINING, EDUCATION ON:

(A) (I) THE ROUTES OF TRANSMISSION OF HIV VIRUS; AND (II) THE ROUTES BY WHICH A PERSON MAY BE EXPOSED TO HIV VIRUS; AND

(B) THE CURRENT CENTERS FOR DISEASE CONTROL GUIDELINES FOR PREVENTING PREHOSPITAL EXPOSURE TO HIV WHILE RENDERING EMERGENCY MEDICAL CARE.

8. A PEACE OFFICER AND A PAID OR VOLUNTEER FIREFIGHTER, EMERGENCY MEDICAL TECHNICIAN OR RESCUE SQUADMAN, SHALL RECEIVE FROM THEIR EMPLOYERS, ASSOCIATIONS, OR LOCAL GOVERNMENTAL BODIES, AT THE EMPLOYER'S, ASSOCIATION'S, OR LOCAL GOVERNMENTAL BODY'S EXPENSE, EQUIPMENT RECOMMENDED BY THE CENTERS FOR DISEASE CONTROL TO PROTECT SUCH PERSON FROM EXPOSURE TO HIV WHILE RENDERING EMERGENCY MEDICAL CARE.

9. (A) THE FIRE DEPARTMENT, LAW ENFORCEMENT AGENCY, AND ALL OTHER AGENCIES OR ORGANIZATIONS EMPLOYING A PERSON INCLUDED WITHIN THIS SECTION SHALL DEVELOP WRITTEN PROCEDURES FOR THE IMPLEMENTATION OF THIS SECTION.

(B) ON REQUEST, COPIES OF THE PROCEDURES DEVELOPED IN THIS SUBDIVISION SHALL BE MADE AVAILABLE TO EMPLOYEES, EMPLOYEE UNIONS, VOLUNTEER ASSOCIATIONS, AND THE SECRETARY OF STATE.

10. A PERSON UNDER THIS SECTION MAY NOT REFUSE TO TREAT OR TRANSPORT AN INDIVIDUAL BECAUSE THE INDIVIDUAL IS HIV POSITIVE.

S 2. This act shall take effect on the ninetieth day after it shall have become a law.