

438.250 Mandatory testing for HIV, hepatitis B and C, tuberculosis, and other diseases for criminal defendants, inmates, and state patients under specified conditions -- Effect of refusal to be tested -- Costs.

- (1) When a public servant, as defined in KRS 521.010, a health care professional who is licensed or certified under the laws of the Commonwealth, an employee of the health care professional, an employee of a health care facility that is licensed under the laws of the Commonwealth, or victim of a crime is bitten by, suffers a puncture wound caused by, or is exposed to the blood or body fluids of a criminal defendant, inmate, parolee, probationer, or patient or resident of any health facility owned or operated by the Commonwealth, or the blood or body fluids of a criminal defendant, inmate, parolee, or probationer have come into contact with the skin or unprotected clothing of a public servant during any incident in which the public servant and the criminal defendant, inmate, parolee, or probationer are involved, the criminal defendant, inmate, parolee, or probationer shall be ordered to submit to testing for human immunodeficiency virus (HIV), hepatitis B and C viruses, and any other disease, if testing for that disease is recommended by the most current guidelines of the Centers for Disease Control and Prevention, and if testing for any of these conditions is recommended, then testing will be conducted as recommended by the Centers for Disease Control and Prevention.
- (2) The written results of the testing shall be made available to each public servant, victim of the crime, criminal defendant, inmate, parolee, or probationer coming within the purview of subsection (1). However, the results shall not be public records and shall be disclosed to others only on a need-to-know basis. The victim of the crime shall receive written results as provided in KRS 510.320.
- (3) If a criminal defendant, inmate, parolee, or probationer fails or refuses to be tested as ordered, he may be held in criminal contempt. A Circuit or District Judge shall compel the criminal defendant, inmate, parolee, or probationer to undergo the testing required herein if he fails or refuses to do so. Undergoing compulsory testing after a failure or refusal to be tested shall not relieve the criminal defendant, inmate, parolee, or probationer of the liability imposed by this subsection.
- (4) The costs of the testing shall be borne by the criminal defendant, inmate, parolee, or probationer unless he is determined unable to pay for the test by a court of competent jurisdiction for criminal defendants and probationers and by the Department of Corrections pursuant to their indigency standards for inmates and parolees, in which case the Commonwealth shall pay for the testing.
- (5) The provisions of subsections (1) to (4) of this section shall apply to juveniles falling within any category specified in subsections (1) to (4) of this section as well as to adults.

Effective: July 14, 2000

History: Amended 2000 Ky. Acts ch. 140, sec. 1, effective July 14, 2000; ch. 345, sec. 4, effective July 14, 2000; ch. 400, sec. 4, effective July 14, 2000; and ch 432, sec. 11, effective July 14, 2000. -- Amended 1998 Ky. Acts ch. 606, sec. 122, effective July 15, 1998. -- Created 1994 Ky. Acts ch. 309, sec. 1, effective July 15, 1994.

Legislative Research Commission Note (7/14/2000). This section was amended by

2000 Ky. Acts chs. 140, 345, 400, and 432, which do not appear to be in conflict and have been codified together.