

STATE OF OKLAHOMA

1st Session of the 49th Legislature (2003)

COMMITTEE SUBSTITUTE
FOR
SENATE BILL 706

By: Pruitt

COMMITTEE SUBSTITUTE

[public health and crime of rape - venereal disease
testing following sexual assault crime -
emergency]

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 63 O.S. 2001, Section 1-524, as amended by Section 4, Chapter 348, O.S.L. 2002 (63 O.S. Supp. 2002, Section 1-524), is amended to read as follows:

Section 1-524. A. The keeper of any prison or penal institution in this state shall cause to be examined every person confined in such prison or penal institution, to determine whether such person is an infected person.

B. Any licensed physician may examine persons who are arrested by lawful warrant for prostitution, or other sex crimes not specified in subsection C of this section, for the purpose of determining if they are infected with a venereal disease or a communicable disease including, but not limited to, the human immunodeficiency virus (HIV). For purposes of expediting such examination, in counties with a population of greater than four hundred thousand (400,000), the county sheriff or the chief of police of any municipality with a population of greater than two hundred thousand (200,000) that is located within such county and that has a municipal court of record shall notify the city-county health department serving the county of any person who has been

arrested by county or city officers for prostitution. Any such examination shall be made subsequent to arrest and if the examination is for the human immunodeficiency virus, upon order of the court issued at the initial appearance of the arrested person. Every person shall submit to the examination and shall permit specimens to be taken for laboratory examinations. Such person may be detained until the results of the examination are known. The examination shall be made by a licensed physician. A determination as to whether or not the person is infected shall not be based on any prior examination. Any person found to be infected with a venereal disease shall be treated by the State Commissioner of Health or local health officer, or a physician of such person's own choice, until such person is noninfectious or dismissed by the Commissioner or local health officer or physician. In the event a person infected with a venereal disease refuses or fails to submit to treatment, then such person may be quarantined for the purpose of treatment, and a report thereof shall be made to the Commissioner.

C. A licensed physician shall examine persons who are arrested by lawful warrant for the offense of first or second degree rape, forcible sodomy or the intentional infection or attempt to intentionally infect a person with the human immunodeficiency virus pursuant to Section 1192.1 of Title 21 of the Oklahoma Statutes, for the purpose of determining if they are infected with a venereal disease or a communicable disease including, but not limited to, the human immunodeficiency virus (HIV). The court shall issue an order for this examination upon the arraignment of the person arrested for any of the offenses specified in this subsection. At the request of the victim or the district attorney, the judge may order such examination and test at the initial appearance or thereafter upon a motion of the victim or the district attorney. The order requiring such examination and test shall not include the name and address of the alleged victim but shall provide that the alleged victim shall

be notified of the test results by the district attorney within five (5) days of the district attorney's office receiving the test results from the State Department of Health. The State Department of Health shall conduct and pay the cost of all court-ordered testing authorized by this section. The court may order the defendant to reimburse, in whole or part, the State Department of Health for any court-ordered testing at the time of sentencing. All test results when completed by the State Department of Health shall be delivered to the district attorney for notification to the victim and the court. No cost or fee shall be incurred by any victim of such crime for testing, obtaining the results of tests, or for any emergency treatment required by a victim due to a positive test for any communicable disease or venereal disease resulting from a crime.

D. For purposes of this section, the term "initial appearance" shall refer to the first court appearance of an individual, in person or by closed circuit television, before a magistrate on a presentment, indictment or preliminary information on a felony offense.

SECTION 2. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

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