

Sec. ~~18.15.400~~. Bloodborne pathogen testing of prisoners, certain adult or juvenile offenders, and public safety officers; required disclosures and consent.

(a) When requested by a public safety officer who may have received a significant exposure from an adult or juvenile offender or a prisoner, the employing agency shall follow the testing procedures of ~~AS~~ ~~18.15.400~~ - 18.15.450 if

(1) a physician licensed under ~~AS~~ 08 determines that a significant exposure to the public safety officer has occurred;

(2) the physician for the public safety officer needs the adult or juvenile offender's or prisoner's bloodborne pathogens test results to begin, continue, modify, or discontinue treatment in accordance with the most current guidelines of the United States Public Health Service, because of possible exposure to a bloodborne pathogen; and

(3) the public safety officer consents to providing a blood sample for testing for a bloodborne pathogen.

(b) Before employing the testing procedures of ~~AS~~ ~~18.15.400~~ 18.15.450 or disclosing any information about the adult or juvenile offender or prisoner or public safety officer, the employing agency shall inform the

(1) adult or juvenile offender or prisoner that

(A) the adult or juvenile offender's or prisoner's bloodborne pathogens test results, without the adult or juvenile offender's or prisoner's name or other uniquely identifying information, shall be reported to the public safety officer if requested and that test results collected are for medical purposes and may not be used ~~as~~ evidence in any criminal proceedings or civil proceedings;

(B) the adult or juvenile offender or prisoner may refuse to provide a blood sample and that the adult or juvenile offender's or prisoner's refusal may result in a request for a court order to require the adult or juvenile offender or prisoner to provide a blood sample; and

(C) the employing agency will advise the public safety officer of the confidentiality requirements and penalties before the officer's health care provider discloses any test results;

(2) public safety officer of the confidentiality requirements of ~~AS~~ 18.15.440 and that the public safety officer may be subject to penalties for unauthorized release of test results about the adult or juvenile offender or prisoner.

(c) If the disclosures have been made, the employing agency shall ask the adult or juvenile offender or prisoner if the adult or juvenile offender or prisoner has ever had a positive test for a bloodborne pathogen. The employing agency shall disclose the adult or

juvenile offender's or prisoner's existing bloodborne pathogens test results to the public safety officer without the adult or juvenile offender's or prisoner's name or other uniquely identifying information.

Sec. 18.15.410. Consent for testing; court order for testing; exception.

(a) When a public safety officer has made a request under ~~AS~~ 18.15.400, except ~~as~~ provided in (b) or (c) of this section or in ~~AS~~ 18.15.420, before collecting and testing the blood of an adult or juvenile offender or a prisoner, the employing agency shall first obtain the consent of the adult offender or prisoner or the adult or juvenile offender's or prisoner's representative if the adult or juvenile offender or prisoner is unable to provide the consent.

(b) Consent of an adult or juvenile offender's or a prisoner's representative is not required if the employing agency has made reasonable efforts to locate the adult or juvenile offender's or prisoner's representative and the representative cannot be found within 24 hours after a significant exposure. If testing of available blood occurs without consent because the adult or juvenile offender or prisoner is unconscious or unable to provide consent, and a representative cannot be located, the employing agency shall provide the information required in ~~AS~~ 18.15.400 to the adult or juvenile offender, prisoner, or representative whenever it is possible to do so.

(c) If an adult or juvenile offender or a prisoner dies before an opportunity to consent to blood collection or testing, consent is not required, and the adult or juvenile offender's or prisoner's blood may be collected and tested.

(d) If the adult or juvenile offender or prisoner or the adult or juvenile offender's or prisoner's representative, if appropriate, consents and a sample of the adult or juvenile offender's or prisoner's blood

(1) is available, the employing agency shall have the blood tested for bloodborne pathogens;

(2) is not available, the employing agency shall collect a sample and have the blood sample tested for bloodborne pathogens.

(e) The employing agency may not withhold care or treatment on the requirement that the adult or juvenile offender or prisoner consent to testing for bloodborne pathogens.

Sec. 18.15.420. Testing without consent.

(a) When a public safety officer has made a request under ~~AS~~ 18.15.400, the employing agency shall file a petition in the superior court for a court order requiring the adult or juvenile offender or prisoner to provide a blood sample for testing for bloodborne pathogens. The employing agency shall serve the petition on the adult or juvenile

offender or prisoner at least 48 hours before a hearing on the petition. The petition must include the following information supported by affidavit:

(1) a statement that the employing agency followed the procedures in [AS 18.15.400](#) - 18.15.450 and attempted to obtain bloodborne pathogens test results according to those sections;

(2) a statement that

(A) the public safety officer and employing agency have documented the officer's exposure to blood or body fluids during performance of the officer's work duties;

(B) the employing agency has asked the adult or juvenile offender or prisoner to consent under [AS 18.15.410](#), and the adult or juvenile offender or prisoner does not consent;

(C) the employing agency has provided the public safety officer and the adult or juvenile offender or prisoner with the disclosures required under [AS 18.15.400](#); and

(D) the employing agency has informed the public safety officer of the confidentiality requirements of [AS 18.15.440](#) and the penalties for unauthorized release of adult or juvenile offender or prisoner information;

(3) a statement that a physician licensed under [AS 08](#) and knowledgeable about the most current recommendations of the United States Public Health Service has determined that a significant exposure has occurred to the public safety officer; and

(4) a statement that a physician has documented that the public safety officer has provided a blood sample and consented to testing for bloodborne pathogens, and bloodborne pathogens test results are needed for beginning, continuing, modifying, or discontinuing medical treatment for the public safety officer.

(b) A court shall order an adult or juvenile offender or a prisoner to provide a blood sample for bloodborne pathogen testing if the court finds that

(1) there is probable cause to believe that a significant exposure to the public safety officer from the adult or juvenile offender or prisoner has occurred;

(2) a licensed physician for the public safety officer needs the test results for beginning, continuing, modifying, or discontinuing medical treatment for the public safety officer; or

(3) a compelling need for the testing and test results exists; in making this finding, the court shall consider the need for the test against the privacy or other interests of the adult or juvenile offender or prisoner.

(c) The court may impose appropriate safeguards against unauthorized disclosure by specifically identifying the persons to have access to the test results and the uses of the test results when ordering a test under (b) of this section.

(d) After testing is completed under this section, the employing agency shall inform the adult or juvenile offender or prisoner whose blood was tested of the results. The employing agency shall inform the public safety officer's physician of the adult or juvenile offender's or prisoner's test results without the adult or juvenile offender's or prisoner's name or other uniquely identifying information.

Sec. 18.15.440. Confidentiality; penalties for unauthorized disclosure; immunity.

(a) Bloodborne pathogens test results of an adult or juvenile offender or a prisoner are confidential and may not be disclosed except ~~as~~ provided in ~~AS~~ [18.15.400](#) ~~18.15.450~~ and ~~as~~ needed for the treatment or medical care of an adult or juvenile offender or a prisoner specific to a bloodborne pathogen-related illness.

(b) An adult or juvenile offender or a prisoner may bring a civil action against a person who knowingly, in violation of ~~AS~~ [18.15.400](#) ~~18.15.450~~, releases the adult or juvenile offender's or prisoner's name or other uniquely identifying information with the test results or otherwise releases the test results.

(c) The employing agency, a physician, and designated health care personnel are immune from liability in any civil, administrative, or criminal action relating to the disclosure of test results of an adult or juvenile offender or a prisoner to a public safety officer and the testing of a blood sample from an adult or juvenile offender or a prisoner for bloodborne pathogens if a good faith effort has been made to comply with ~~AS~~ [18.15.400](#) ~~18.15.450~~.

Sec. 18.15.445. Assistance by departments and municipalities.

The department, the Department of Public Safety, the Department of Corrections, and each municipality shall assist public safety officers and employing agencies in complying with the requirements of ~~AS~~ [18.15.400](#) ~~18.15.450~~.

Sec. 18.15.450. Definitions for ~~AS~~ [18.15.400](#) ~~18.15.450~~.

In ~~AS~~ [18.15.400](#) ~~18.15.450~~,

(1) "adult or juvenile offender" means a person in custody, arrested, or charged under a criminal complaint or a minor being held or subject to a petition under ~~AS~~ 47.12;

(2) "bloodborne pathogens" means pathogenic microorganisms that are present in human blood and can cause disease in humans; these pathogens include hepatitis B virus (HBV), hepatitis C virus (HCV), and human immunodeficiency virus (HIV);

(3) "employing agency" means the

(A) department that employs a state employee who is, or contracts with another person who is or employs, a public safety officer;

(B) municipality that employs a municipal employee who is, or contracts with another person who is or employs, a public safety officer or that contracts with, sponsors, or accepts the services of a public safety officer who volunteers for a volunteer fire department or emergency medical services agency;

(C) Department of Public Safety for a public safety officer who volunteers for a volunteer fire department or emergency medical services agency that provides services in the unorganized borough outside of a municipality;

(4) "prisoner" has the meaning given in [AS 33.30.901](#);

(5) "public safety officer" means a state or municipal juvenile or adult correctional, probation, or parole officer, a contractor or employee of a contractor in a correctional facility, a juvenile detention or treatment facility staff member, or a peace officer or fire fighter, emergency medical technician, or mobile intensive care paramedic employed by or volunteering for the state or a municipality or volunteer fire department or emergency medical services provider.

(6) "significant exposure" means contact likely to transmit a bloodborne pathogen, in a manner supported by the most current guidelines and recommendations of the United States Public Health Service at the time an evaluation takes place, that includes

(A) percutaneous injury, contact of mucous membrane or nonintact skin, or prolonged contact of intact skin; and

(B) contact, in a manner that may transmit a bloodborne pathogen, with blood, tissue, or potentially infectious body fluids.