



Ohio Revised Code

Section 3701.247 Order compelling HIV testing.

Effective: October 16, 2009

Legislation: House Bill 1 - 128th General Assembly

(A)(1) Any of the following persons may bring an action in a probate court for an order compelling another person to undergo HIV testing:

(a) A person who believes the person may have been exposed to HIV infection while rendering health or emergency care to the other person;

(b) A peace officer who believes the peace officer may have been exposed to HIV infection while dealing with the other person in the performance of official duties.

(2) The complaint in the action shall be accompanied by an affidavit in which the plaintiff attests to all of the following:

(a) While rendering health or emergency care to the defendant, or while dealing with the defendant in the performance of the plaintiff's duties, the plaintiff sustained a significant exposure to body fluids of the defendant that are known to transmit HIV;

(b) The plaintiff has reason to believe the defendant may have an HIV infection;

(c) The plaintiff made a reasonable attempt to have the defendant submit to HIV testing in accordance with section 3701.242 of the Revised Code, and notified the defendant that the plaintiff would bring an action under this section on the defendant's refusal or failure to be tested, but the defendant has not been tested;

(d) Within seven days after the exposure, the plaintiff took an HIV test.

In the complaint, the defendant shall be identified by a pseudonym and the defendant's name communicated to the court confidentially pursuant to a court order restricting the use of the name. Proceedings shall be conducted in chambers unless the defendant agrees to a hearing in open court.



(B) The court shall hold a hearing on the complaint at the earliest possible time but not later than the third business day after the day the defendant is served with the complaint and notice of the hearing. The court shall enter judgment on the complaint on the day the hearing is concluded.

(C) Notwithstanding division (A) of section 3701.242 of the Revised Code, the court may order the defendant to undergo HIV testing if it finds by clear and convincing evidence that the plaintiff has proved the matters attested to in the plaintiff's affidavit and has demonstrated that the plaintiff has a compelling need for the results of the test and no other means exist to accommodate the need. If granted, the order shall guard against unauthorized disclosure of the test results by specifying the persons and governmental entities that may have access to the results and by limiting further disclosure. The court shall require that the defendant be given test results and, if the defendant's test results are HIV-positive, that post-test counseling be provided the defendant in accordance with division (C) of section 3701.242 of the Revised Code. The court may order the plaintiff to pay the cost of the defendant's testing and counseling.