

1 AN ACT relating to the modernization of disease testing.

2 ***Be it enacted by the General Assembly of the Commonwealth of Kentucky:***

3 ➔Section 1. KRS 510.320 is amended to read as follows:

- 4 (1) For purposes of this section, **"sexually transmitted disease" has the same meaning**
5 **as in KRS 214.410**~~["human immunodeficiency virus test" means a test of an~~
6 ~~individual for presence of human immunodeficiency virus, or for antibodies or~~
7 ~~antigens that result from human immunodeficiency virus infection, or for any other~~
8 ~~substance specifically indicating human immunodeficiency virus infection].~~
- 9 (2) A defendant charged with an offense pursuant to this chapter which has sexual
10 intercourse or deviate sexual intercourse as an element, or has sexual contact as an
11 element when the circumstances of the case demonstrate a possibility of
12 transmission of **a sexually transmitted disease**~~[human immunodeficiency virus],~~
13 shall upon initial court appearance on the charge, be informed by the judge of the
14 availability of ~~[human immunodeficiency virus]~~testing **for a sexually transmitted**
15 **disease**. The judge shall also notify the victim of the offense, or parent or guardian
16 of the victim, that the defendant has been so notified.
- 17 (3) When a defendant has been convicted of any offense in subsection (2) of this
18 section, other provisions of law to the contrary notwithstanding, the sentencing
19 court, regardless of any prior ~~[human immunodeficiency virus]~~**sexually transmitted**
20 **disease** test, shall order the defendant to undergo **testing for a sexually transmitted**
21 **disease**~~[a human immunodeficiency virus test,]~~ under the direction of the Cabinet
22 for Health and Family Services.
- 23 (4) (a) The result of any ~~[human immunodeficiency virus]~~test **for a sexually**
24 **transmitted disease** conducted pursuant to this section shall not be a public
25 record for purposes of KRS Chapter 61.
- 26 (b) The result of any ~~[human immunodeficiency virus]~~test **for a sexually**
27 **transmitted disease** conducted pursuant to this section shall only be made

1 available by the Cabinet for Health and Family Services to the victim, or the
2 parent or guardian of a victim who is a minor, an individual with an
3 intellectual disability, or mentally incapacitated, the defendant, the court
4 issuing the order for testing, and to any other agency as directed pursuant to
5 KRS Chapter 214.

6 (c) The Cabinet for Health and Family Services shall immediately provide to the
7 victim the results of any ~~human immunodeficiency virus~~ test **for a sexually**
8 **transmitted disease** conducted under this section.

9 (d) In addition, the Cabinet for Health and Family Services shall provide to the
10 Department of Corrections the result of any ~~human immunodeficiency virus~~
11 test **for a sexually transmitted disease** conducted pursuant to this section
12 which indicates that the defendant is infected with the **sexually transmitted**
13 **disease**~~human immunodeficiency virus~~. The Department of Corrections
14 shall use this information solely for the purpose of providing medical
15 treatment to the defendant while incarcerated in a state penitentiary or
16 correctional institution or county jail.

17 (5) If the ~~human immunodeficiency virus~~ test **for a sexually transmitted disease**
18 indicates the presence of **a sexually transmitted disease**~~human immunodeficiency~~
19 ~~virus infection~~, the Cabinet for Health and Family Services shall provide
20 counseling to the victim and the defendant regarding **the sexually**
21 **transmitted**~~human immunodeficiency virus~~ disease, and referral for appropriate
22 health-care and support services.

23 (6) The cost of testing under this section shall be paid by the defendant tested, unless
24 the court has determined the defendant to be indigent.

25 (7) Filing of a notice of appeal shall not automatically stay an order that the defendant
26 submit to a ~~human immunodeficiency virus~~ test **for a sexually transmitted**
27 **disease**.

1 ➔Section 2. KRS 529.090 is amended to read as follows:

2 (1) *For purposes of this section, "sexually transmitted disease" has the same*
3 *meaning as in KRS 214.410.*

4 (2) Any person convicted of prostitution or procuring another to commit prostitution
5 under the provisions of KRS 529.020 shall be required to undergo screening for *a*
6 *sexually transmitted disease*~~human immunodeficiency virus infection~~ under
7 direction of the Cabinet for Health and Family Services and, if infected, shall
8 submit to treatment and counseling as a condition of release from probation,
9 community control, or incarceration. Notwithstanding the provisions of KRS
10 214.420, the results of any test conducted pursuant to this subsection shall be made
11 available by the Cabinet for Health and Family Services to medical personnel,
12 appropriate state agencies, or courts of appropriate jurisdiction to enforce the
13 provisions of this chapter.

14 (3)~~(2)~~ Any person who commits prostitution and who, prior to the commission of the
15 crime, had tested positive for a sexually transmitted disease and knew or had been
16 informed that he *or she* had tested positive for a sexually transmitted disease
17 ~~[pursuant to KRS 214.410]~~ and that he *or she* could possibly communicate such
18 disease to another person through sexual activity is guilty of a Class A
19 misdemeanor. A person may be convicted and sentenced separately for a violation
20 of this subsection and for the underlying crime of prostitution.

21 ~~(3) Any person who commits, offers, or agrees to commit prostitution by engaging in~~
22 ~~sexual activity in a manner likely to transmit the human immunodeficiency virus~~
23 ~~and who, prior to the commission of the crime, had tested positive for human~~
24 ~~immunodeficiency virus and knew or had been informed that he had tested positive~~
25 ~~for human immunodeficiency virus and that he could possibly communicate the~~
26 ~~disease to another person through sexual activity is guilty of a Class D felony. A~~
27 ~~person may be convicted and sentenced separately for a violation of this subsection~~

1 ~~and for the underlying crime of prostitution.]~~
2 (4) Any person convicted of procuring another to commit prostitution in a manner
3 likely to transmit *a sexually transmitted disease*~~[the human immunodeficiency~~
4 ~~virus]~~ and who, prior to the commission of the crime, had tested positive for *a*
5 *sexually transmitted disease*~~[human immunodeficiency virus]~~ and knew or had
6 been informed that he *or she* had tested positive for *a sexually transmitted*
7 *disease*~~[human immunodeficiency virus]~~ and that he *or she* could possibly
8 communicate the disease to another person through sexual activity is guilty of a
9 Class *A misdemeanor*~~[D felony]~~.