



**H.B. 495**

126th General Assembly  
(As Introduced)

**Reps. Cassell, J. McGregor, Bocchieri, Harwood, Williams, DeGeeter,  
Reidelbach, Hartnett, Driehaus, Collier, Distel, Wagoner, Fende**

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**BILL SUMMARY**

- Authorizes a court, in sentencing an offender who is not indigent for a specified sex offense, to require the offender to pay for or reimburse the appropriate entity for the costs of any medical tests performed on the offender to determine if the person carries the AIDS virus.

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**CONTENT AND OPERATION**

**Payment by offender of costs of medical tests for AIDS virus**

Under existing law, any cost incurred by a hospital or emergency medical facility in conducting a medical examination and test of any person who is charged with specified sex offenses (see **COMMENT 1**) is charged to and must be paid by the accused who undergoes the examination and test, unless the court determines that the accused is unable to pay. If the accused cannot pay, the cost is charged to and paid by the municipal corporation in which the offense allegedly was committed or charged to and paid by the county if the offense allegedly was committed within an unincorporated area. If separate counts of an alleged offense or alleged separate offenses took place in more than one municipal corporation or more than one unincorporated area, or both, the local governments share the cost of the examination and test. If a hospital or other emergency medical facility has submitted charges for the cost of a medical examination and test to an accused and has been unable to collect payment for the charges after making good faith attempts to collect for a period of six months or more, the cost is charged to and paid by the appropriate municipal corporation or county. (R.C. 2907.28(C).)

The bill retains the existing provision. In addition, it provides that if an accused person is convicted of or pleads guilty to one of the specified sex offenses and the court finds that the person is not indigent, the court in sentencing the person may order the person to pay the hospital or other emergency medical

facility at which the examination or tests were conducted the costs of a medical examination and test performed pursuant to R.C. 2907.27(B) to see if the person carries the AIDS virus (see **COMMENT 2**). If the appropriate municipal corporation or county has paid the hospital or emergency medical facility the costs of the medical examination and tests, the court may order the person, if not indigent, to reimburse the municipal corporation or county for the costs of the medical examination and tests. (R.C. 2907.28(C)(2).)

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## **COMMENT**

1. The sex offenses specified in R.C. 2907.28 are felonious assault involving sexual conduct by a person with the AIDS virus (R.C. 2903.11(B)), rape (R.C. 2907.02), sexual battery (R.C. 2907.03), unlawful sexual conduct with a minor (R.C. 2907.04), gross sexual imposition (R.C. 2907.05), soliciting and soliciting after a positive HIV test (R.C. 2907.24), loitering to engage in solicitation and loitering to engage in solicitation after a positive HIV test (R.C. 2907.241), prostitution and engaging in prostitution after a positive HIV test (R.C. 2907.25), and any municipal ordinance that is substantially equivalent to any of the foregoing Revised Code divisions or sections.

2. Under R.C. 2907.27(B), upon the request of the prosecutor, the victim, or any other person whom the court reasonably believes had contact with the accused in circumstances related to a violation of any of the offenses specified in **COMMENT 1** that could have resulted in the transmission to that person of a virus that causes AIDS, the court must cause the accused to submit to one or more tests designated by the Director of Health under R.C. 3701.241 to determine if the accused is a carrier of the virus. Upon the request of the prosecutor, or, if the prosecutor agrees, upon the request of the victim or any other person, the court may cause an accused who is charged with a violation of any other section of the Revised Code or with a violation of any other municipal ordinance to submit to one or more tests if the circumstances of the violation indicate probable cause to believe that the accused, if infected with the AIDS virus, might have transmitted the virus to any of the following persons in committing the violation:

- (1) In relation to a request made by the prosecuting attorney, to the victim or to any other person;
- (2) In relation to a request made by the victim, to the victim;
- (3) In relation to a request made by any other person, to that person.

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## **HISTORY**

ACTION

DATE

Introduced

02-01-06

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