**South Carolina General Assembly**

119th Session, 2011-2012

**A36, R62, S568**

**STATUS INFORMATION**

General Bill

Sponsors: Senators L. Martin and Ford

Document Path: l:\council\bills\ms\7263ahb11.docx

Companion/Similar bill(s): 3679

Introduced in the Senate on February 15, 2011

Introduced in the House on March 31, 2011

Passed by the General Assembly on May 26, 2011

Governor's Action: June 7, 2011, Signed

Summary: Hepatitis B and HIV testing

**HISTORY OF LEGISLATIVE ACTIONS**

 Date Body Action Description with journal page number

 2/15/2011 Senate Introduced and read first time ([Senate Journal‑page 7](file:///h%3A%5Csj%20archive%5C2011%5C02-15-11.docx))

 2/15/2011 Senate Referred to Committee on **Judiciary** ([Senate Journal‑page 7](file:///h%3A%5Csj%20archive%5C2011%5C02-15-11.docx))

 2/23/2011 Senate Referred to Subcommittee: L.Martin (ch), Rankin, Hutto, Bright, Davis

 3/23/2011 Senate Committee report: Favorable **Judiciary** ([Senate Journal‑page 5](file:///h%3A%5Csj%20archive%5C2011%5C03-23-11.docx))

 3/30/2011 Senate Read second time ([Senate Journal‑page 36](file:///h%3A%5Csj%20archive%5C2011%5C03-30-11.docx))

 3/30/2011 Senate Roll call Ayes‑39 Nays‑0 ([Senate Journal‑page 36](file:///h%3A%5Csj%20archive%5C2011%5C03-30-11.docx))

 3/31/2011 Senate Read third time and sent to House ([Senate Journal‑page 15](file:///h%3A%5Csj%20archive%5C2011%5C03-31-11.docx))

 3/31/2011 House Introduced and read first time ([House Journal‑page 76](file:///h%3A%5Chj%20archive%5C2011%5C03-31-11.docx))

 3/31/2011 House Referred to Committee on **Medical, Military, Public and Municipal Affairs** ([House Journal‑page 76](file:///h%3A%5Chj%20archive%5C2011%5C03-31-11.docx))

 4/12/2011 House Recalled from Committee on **Medical, Military, Public and Municipal Affairs** ([House Journal‑page 45](file:///h%3A%5Chj%20archive%5C2011%5C04-12-11.docx))

 4/12/2011 House Referred to Committee on **Judiciary** ([House Journal‑page 45](file:///h%3A%5Chj%20archive%5C2011%5C04-12-11.docx))

 5/18/2011 House Committee report: Favorable **Judiciary** ([House Journal‑page 59](file:///h%3A%5Chj%20archive%5C2011%5C05-18-11.docx))

 5/24/2011 House Debate adjourned ([House Journal‑page 64](file:///h%3A%5Chj%20archive%5C2011%5C05-24-11.docx))

 5/24/2011 House Debate adjourned until Wednesday, May 25, 2011 ([House Journal‑page 106](file:///h%3A%5Chj%20archive%5C2011%5C05-24-11.docx))

 5/25/2011 House Read second time ([House Journal‑page 17](file:///h%3A%5Chj%20archive%5C2011%5C05-25-11.docx))

 5/25/2011 House Roll call Yeas‑100 Nays‑2 ([House Journal‑page 17](file:///h%3A%5Chj%20archive%5C2011%5C05-25-11.docx))

 5/26/2011 House Read third time and enrolled ([House Journal‑page 10](file:///h%3A%5Chj%20archive%5C2011%5C05-26-11.docx))

 6/1/2011 Ratified R 62

 6/7/2011 Signed By Governor

 6/14/2011 Effective date 06/07/11

 6/20/2011 Act No. 36

**VERSIONS OF THIS BILL**

[2/15/2011](file:///p%3A%5Cpprever%5C2011-12%5C568_20110215.docx)

[3/23/2011](file:///p%3A%5Cpprever%5C2011-12%5C568_20110323.docx)

[5/18/2011](file:///p%3A%5Cpprever%5C2011-12%5C568_20110518.docx)

(A36, R62, S568)

**AN ACT TO AMEND SECTION 16‑3‑740, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO TESTING OF CERTAIN OFFENDERS FOR HEPATITIS B AND HUMAN IMMUNODEFICIENCY VIRUS (HIV), SO AS TO FURTHER CLARIFY OFFENDERS WHO MUST BE TESTED AND THE TIME FRAME THAT TESTING MUST BE CONDUCTED AND PROVIDE FOR FOLLOW‑UP TESTING FOR HIV WHEN MEDICALLY APPROPRIATE.**

Be it enacted by the General Assembly of the State of South Carolina:

**HIV testing of certain offenders**

SECTION 1. Section 16‑3‑740(B) of the 1976 Code, as last amended by Act 292 of 2010, and (D) is further amended to read:

 “(B) Upon the request of a person who is the victim of a criminal offense which involves the sexual penetration of the victim’s body or who has been exposed to body fluids during the commission of a criminal offense, or upon the request of the legal guardian of a person who is the victim of a criminal offense which involves the sexual penetration of the victim’s body or who has been exposed to body fluids during the commission of a criminal offense, the solicitor, after the offender is charged, must petition the court for an order to have the offender tested for Hepatitis B and HIV. An offender must be tested pursuant to this section for Hepatitis B and HIV as soon as practicable after the court order is issued but not later than forty‑eight hours after the date the person is indicted for the offense or waives indictment for the offense. If the offender is subject to the jurisdiction of the family court, he must be tested not later than forty‑eight hours after the petition is filed with the family court alleging he is delinquent for committing the offense. If the offender cannot be located before the end of the forty‑eight hour period as provided in this subsection, the forty‑eight hour period is tolled until the offender is located by law enforcement. To obtain a court order, the solicitor must demonstrate the following, that the:

 (1) victim or the victim’s legal guardian requested the tests;

 (2) offender has been charged with, indicted for, or waived indictment for an offense which involved the sexual penetration of the victim’s body or that there is probable cause that during the commission of the criminal offense there was a risk that body fluids were transmitted from one person to another; and

 (3) offender has received notice of the petition and notice of his right to have counsel represent him at a hearing.

 The results of the tests must be kept confidential but disclosed to the solicitor who obtained the court order. As soon as practicable, the solicitor shall notify only those persons designated in subsection (C) of the results of the initial Hepatitis B and HIV tests and the results of any follow‑up HIV tests.

 (D) If deemed medically appropriate, the offender must undergo follow‑up testing for HIV. The follow‑up testing, and any counseling which may be ordered, shall be performed on dates that occur six weeks, three months, and six months following the initial test. Any follow‑up testing shall be terminated if the offender obtains an acquittal on, dismissal of, or is not adjudicated delinquent for all charges for which testing was ordered.”

**Time effective**

SECTION 2. This act takes effect upon approval by the Governor.

Ratified the 1st day of June, 2011.

Approved the 7th day of June, 2011.

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