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Vermont Legislative Research Shop

Reform of Services for Victims of Sexual Assault

Vermont Bill

The Senate Judiciary Committee of the Vermont Legislature approved a bill, which calls for mandatory HIV testing for convicted sex offenders. The bill adds new provisions for victim services. Services include HIV tests, crisis counseling, and prophylaxis treatment to prevent HIV contraction.

Risk of HIV Infection from Sexual Assault

The risk of infection associated with sexual assault depends upon a number of factors. A conservative estimate of the risk of transmission of HIV from sexual assault involving anal or vaginal penetration and exposure to HIV infected semen is greater than two infections per 1000 contacts (National Conference of State Legislators, 1999). This depends upon the clinical stage of the assailant's HIV infection, strength of the strain of HIV and whether the victim has been exposed to the particular strain of HIV previously (NCSL, 1999). One important factor is the frequency of HIV infection within the victim's state or metropolitan area. In Vermont 0.9% of the population had tested positive for HIV in 1996 (U.S. Department of Health and Human Services. *1996 Annual Report*). Another important factor for determining the risk of HIV transmission is whether vaginal tears, anal tears, or bleeding occurred or whether there were visible genital ulcers or other evidence of an active STD (Centers for Disease Control, 1998). In cases of sexual assault it may be difficult to determine whether the assailant showed signs of STD infection.

Prophylaxis Treatment

There is no "morning after pill" to prevent HIV infection. However antiretroviral drug therapy, also known as Prophylaxis, has been found to significantly reduce the risk of HIV infection among health care workers. One study found that treatment with AZT decreased risk by 79% (Deneberg, Risa 1997). Researchers are unsure whether these results are applicable to victims of sexual assault or whether slower initiation will have a profound effect on efficacy. The therapy involves two to three drugs such as AZT, 3TC, and indinavir, taken for at least thirty days (Centers for Disease Control, 1998). This regimen used to suppress the HIV virus is extremely rigorous and adherence is critical. Among rape victims in New York City only 16% of patients are known to have completed the regimen as prescribed. The US average for completion of the regimen among health care workers is just over 60% (CDC, 1998). The cost of the treatment is estimated by the *Rutland Herald* at \$2,500 per patient, however the CDC estimates costs from \$600-\$1000 (Schmaler, Tracey, 2000). Researchers are unsure of whether treatment must be administered within 72 hours or 24-36 hours of exposure, however it is clear that therapy is most effective when started within 1-2 hours of exposure (CDC, 1998).

Interpretation

If the bill were interpreted that prophylaxis treatment be administered to all victims of a sexual act, the amount of money spent on prophylaxis treatment would be significantly higher, though the long-term benefit could outweigh the alternative of higher HIV infection rates among victims of sexual assault.

However, if the interpretation of this bill is that only victims of convicted sex offenders (having tested positive for HIV/AIDS) will receive state funded prophylaxis treatment, the potential cost will be minimal because the amount of time needed to convict the offender will have made prophylaxis treatment ineffective. In a 1998 Hawaii law allowing victims of sexual assault the right to require HIV testing for convicted offenders, the medical uselessness of requiring HIV testing upon the arrest or indictment of the defendant. According to the Hawaii law, most arrests are made long after the 24-36 hour post-exposure period when treatment for the victim would be best. (National Conference of State Legislatures, 1999)

State Approaches (National Conference of State Legislatures, 1999, except where noted)

- All 50 States mandate or authorize HIV testing for convicted or charged sex offenders
- 24 states have laws that refer victims of sexual offences to HIV counseling, testing and support services
- Mississippi requires results of HIV tests performed on victims of sexual assault be made available to the victim and/or the victims guardian
- Rhode Island mandates that victims be informed of the limitations of offender testing and the need to assess the risk of HIV transmission from the crime
- Colorado, Florida, Georgia, Illinois, Kentucky, Michigan, Missouri, Ohio, Rhode Island, Utah and West Virginia mandate HIV testing of individuals convicted of prostitution
- Colorado, Florida and Utah mandate HIV testing for individuals who solicit or patronize prostitutes
- Florida, Iowa, Indiana, Kansas, Oklahoma and Wisconsin allow for HIV testing of an alleged sex offender
- Iowa allows testing if it is believed that a significant exposure occurred and the alleged offender refuses consent
- Indiana keeps the results of those defendants not convicted confidential
- Oklahoma judges may require suspected sex offenders to undergo testing at his/her initial court appearance
- Wisconsin laws allow for testing of defendants whose convictions are barred by reason of insanity
- South Carolina provides that within fifteen days of a grand jury indictment for crimes involving exposure to blood, semen, vaginal fluid, or other body fluids or secretions of an alleged offender (including juvenile suspects) a motion must be made for HIV, Hepatitis B and STD testing of the alleged offender. The results of these tests may only be revealed to the victim or the victim's guardian until a conviction has been made (National Conference of State Legislatures 2000)

Sources

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