

Arizona

All citations are to “Ariz. Rev. Stat. Ann.” unless otherwise noted.

DEFINITIONS

(1) “AIDS,” “capacity to consent,” “child,” “communicable disease,” “confidential communicable disease related information,” “contact,” “health care provider,” “health facility,” “health service,” “HIV infection,” “HIV-related illness,” “protected person,” and “release of confidential communicable disease related information” are defined at § 36-661.

(2) “Confidential HIV-related information,” “HIV,” and “HIV-related test,” are defined at §§ 36-661, 20-448.01.

(3) “Significant exposure,” as it pertains to sexual offenses, is defined at § 13-1415.

(4) “Significant exposure,” as it pertains to workers’ compensation, is defined at § 23-1043.02.

(5) “Special needs population,” which includes individuals infected with HIV, is defined at § 41-3954.

CRIMINAL LAW

(1) A person who performs, permits, or procures the performance of an HIV-related test (see Definitions (2)) in violation of informed consent procedures (see Testing & Reporting (1)), or who improperly discloses, compels another person to disclose, or procures the disclosure of confidential communicable disease related information (see Definitions (1)) is guilty of a Class 3 misdemeanor. § 36-666. The Department of Health Services may also impose a civil penalty for such violations. § 36-667. There is immunity from criminal or civil liability for disclosures permitted by statute (see Testing & Reporting (4)), if done in good faith and without malice. There is also immunity from criminal and civil liability for failure to disclose, even though permitted by statute (see Testing & Reporting (3)), if done in good faith and without malice. § 36-666.

Housing (1)

Testing & Reporting (5), (6), (7), (8), (12)

EDUCATION

(1) Each school district may provide instruction in grades kindergarten through twelve on HIV (see Definitions (2)) and AIDS (see Definitions (1)). Each district is free to develop its own course of study for each grade. At a minimum, instruction shall be age appropriate and medically accurate and shall promote sexual abstinence and discourage drug abuse. The instruction shall aim to dispel myths regarding transmission of HIV and shall neither promote homosexuality, portray homosexuality as a positive alternative lifestyle, nor suggest that some methods of homosexual sex are safe. At the

request of each school district, the Department of Health Services shall review instruction materials to determine their medical accuracy. The Department of Education shall provide a suggested course of study, training for teachers, and a list of available films and other teaching aids. Pupils whose parents request to withdraw them from instruction on HIV and AIDS may be excused and parents shall be notified of this right. § 15-716.

Housing (1)

Testing & Reporting (9)

EMPLOYMENT

(1) An employee who satisfies the following conditions presents a prima facie claim for a condition, infection, disease or disability involving or related to HIV (see Definitions (1), (2)) if the medical evidence shows that the employee sustained a significant exposure (see Definitions (4)): employee's regular course of employment involves handling or exposure to blood or bodily fluids, other than tears, saliva, or perspiration; within ten calendar days after a possible significant exposure which arises out of and in the course of his employment, the employee reports in writing to the employer the details of the exposure; the employee has blood drawn within ten days after the possible significant exposure; the blood is tested for HIV within thirty days after the exposure and the results are negative; and the employee is tested or diagnosed as positive for HIV within eighteen months after the date of the possible significant exposure. § 23-1043.02.

Testing & Reporting (3), (4)

HOUSING

(1) No criminal, civil, or administrative action may be brought against a transferor of real property or a licensee for failing to disclose that the property being transferred is or has been owned or occupied by a person exposed to HIV (see Definitions (2)) or diagnosed with AIDS (see Definitions (1)). Failure to disclose such information shall not be grounds for termination or rescission of any transaction in which real property has been or will be transferred. § 32-2156.

(2) The Arizona Housing Commission shall encourage the development of housing opportunities for special needs populations (see Definitions (5)). § 41.3954.

INSURANCE

(1) No person who obtains confidential HIV-related information (see Definitions (2)) in the course of processing insurance information or insurance applications pursuant to a release of confidential HIV-related information may disclose or be compelled to disclose that information except to: the protected person or a person legally authorized

to consent for the protected person; a person to whom disclosure is authorized by a written release; a government agency specifically authorized by law to receive the information; a person to whom disclosure is ordered by a court or administrative body; the industrial commission or parties to an industrial commission claim (workers' compensation), pursuant to § 23-908 and § 23-1043.02. No one may require the performance of an HIV-related test (see Definitions (2)) without the informed consent of the subject of the test who has the capacity to consent (see Definitions (1)), or if the subject lacks consent, of a person authorized pursuant to law to consent for that person. No one who obtains confidential HIV-related information in the course of processing insurance information or insurance applications pursuant to a release of confidential HIV-related information may disclose that information, except to the following: the protected person; a person authorized to consent for that person; or a person whom disclosure is authorized to. In the case of a medical information exchange, the insurer will not report that blood tests of an applicant's blood showed AIDS (see Definitions (1)) antibodies, but that results were abnormal. Test results may be shared with the underwriting department of the applicant's insurer and reinsurers. § 20-448.01

RESEARCH

Testing & Reporting (1), (4)

SOCIAL & MEDICAL SERVICES

(1) When applying for a marriage license, the couple must complete and sign an affidavit under oath stating that they understand that information on sexually transmitted diseases (STDs) is available from the county health department on request. § 25-121.

Criminal Law (1)

Education (1)

Employment (1)

Housing (2)

Testing & Reporting (1), (2), (3), (4), (8), (9), (13)

TESTING & REPORTING

(1) Except as specifically authorized or required by state or federal law, no person may order the performance of an HIV-related test (see Definitions (2)) within a licensed hospital without first receiving the specific written informed consent of the subject of the test who has capacity to consent (see Definitions (1)) or, if the subject lacks capacity to consent, of a person legally authorized to give consent for that person. If the test is to be administered by a licensed health care provider (see Definitions (1)) outside of a licensed hospital, specific oral or written informed consent shall be obtained by the subject or a person legally authorized to give consent for the subject. Oral consent shall be

documented in the medical record of the subject of the test. If the test is performed on an anonymous basis, the consent shall be oral, and no record shall be made containing the subject's name. In order to obtain specific oral or written informed consent, the licensed health care provider shall provide the patient with an explanation of the following: the purpose, meaning, and results of the test, and the benefits of early diagnosis and medical intervention; the nature of AIDS and HIV-related illness (see Definitions (1)) and information about behavior known to pose risks for transmission of HIV (see Definitions (2)); confidentiality protections afforded HIV-related information; that an HIV-related test is voluntary and can be performed anonymously at a public health agency; that a positive test result must be reported to a public health agency as required by law; that consent for the test may be withdrawn at any time before drawing the sample for the test; and that withdrawal of consent may be given orally if the consent was given orally or shall be in writing if the consent was given in writing. Informed consent is not required: by a health care provider or health facility (see Definitions (1)) in relation to the procuring, processing, distributing, or use of a human body or body part for use in medical research or therapy or for transplantation to other persons; for the purpose of research if the testing is performed in a manner by which the identity of the test subject will be protected and may not be retrieved by the researcher; on a deceased person, if the test is conducted to determine the cause of death or for epidemiologic or public health purposes; in the course of providing necessary emergency medical treatment to a patient who lacks capacity to consent to HIV-related testing and for whom no person legally authorized to consent for that person can be identified at that time; or on a patient who lacks capacity to consent for whom no person legally authorized to consent for that person can be identified, and for whom the HIV-related testing is necessary for the diagnosis and treatment of the person's medical condition. § 36-663.

(2) All federally registered blood banks, blood centers, and plasma centers in the state shall notify blood donors of any test results with significant evidence indicating the presence of syphilis, HIV, or hepatitis B. § 32-1483.

(3) A doctor may report the name of a patient's spouse or sex partner or a person with whom the patient has shared hypodermic needles or syringes to the Department of Health Services if the doctor knows that the patient is HIV positive and that the patient has not or will not notify these people and refer them to testing. A doctor who knows or has reason to believe that a significant exposure has occurred between a patient who is HIV positive and a health care or public safety employee may inform the employee of the exposure. Before informing the employee, the doctor shall consult with the patient and ask the patient to release this information voluntarily. If the patient does not release the information, the doctor may do so in a manner that does not identify the patient. § 32-1457.

(4) No person who obtains confidential communicable disease related information (see Definitions (1)) may disclose or be compelled to disclose that information except

to: the protected person (see Definitions (1)) or a person legally authorized to consent to health care for the protected person; an agent or employee of a health facility or health care provider if the agent or employee is authorized to access medical records, the health facility or health care provider itself is authorized to obtain communicable disease information, and the agent or employee provides health care to the protected person or maintains or processes medical records for billing or reimbursement; a health care provider or facility if knowledge of the communicable disease related information is necessary to provide appropriate care or treatment to the protected person or the protected person's child; a health care facility or health care provider, in relation to the procurement, processing, distributing, or use of a human body or body part for use in medical education, research, or therapy, or for transplantation to another person; another facility designated by the health facility engaged in the review of the quality, utilization, or necessity of medical care, or an accreditation or oversight review organization responsible for the review of professional practices at a health facility; a federal, state, county, or local health officer if disclosure is mandated by federal or state law; a government agency specifically authorized by law to receive the information; a person, health care provider, or health care facility to which disclosure is ordered by a court or administrative body; the Department of Economic Security in conjunction with the placement of a child (see Definitions (1)) or children for adoption; or insurance entities pursuant to § 20-448.01. Pursuant to a written release, a health officer may disclose confidential communicable disease information if the disclosure is specifically authorized by federal or state law, made to a contact of the protected person, or for research purposes. Disclosure made pursuant to this section shall be made without identifying the protected person, and shall be accompanied by a written statement which warns that the information is from confidential records which are protected by state law that prohibits further disclosure of the information without specific written consent of the person to whom it pertains. A person making a disclosure pursuant to a release of confidential communicable disease related information shall keep a record of all disclosures. On request, a protected person shall have access to the record. Information that identifies the protected person may be released to the National Center for Health Statistics of the United States Public Health Service for the purpose of conducting a search of the national death index. This provision does not prohibit the listing of communicable disease related information, including AIDS and HIV-related illness or HIV infection in a certificate of death, autopsy report, or other related document relating to cause of death. If a person in possession of confidential HIV-related information reasonably believes that an identifiable third party is at risk of HIV infection, that person may report that risk to the Department of Health Services. The Department shall contact the person through a Health Department employee capable of providing counseling.

§ 36-664.

(5) A court or administrative body may issue an order for the disclosure of

confidential communicable disease related information only upon application showing: a compelling need for disclosure of the information for the adjudication of a criminal, civil, or administrative proceeding; a clear and imminent danger to a person whose life or health may unknowingly be at significant risk as a result of contact with the person to whom the information pertains; if the application is filed by a state, county, or local health officer, a clear and imminent danger to the public health; or that the applicant is lawfully entitled to the disclosure. The person to whom the information pertains shall be notified of the application, and may file a written response to the application or appear in person for the purpose of providing evidence on the criteria for the issuance of a disclosure order. If a public health officer shows that a clear and imminent danger to a person whose life may be at risk exists, notice of such an application is not required. The information disclosed under this section shall be limited to the information which is necessary to fulfill the purpose for which the order is granted and to those persons whose need for the information is the basis for the order. § 36-665.

(6) The Department of Corrections may require that a prisoner be tested for HIV if the Department has reasonable grounds to believe that the person is infected with HIV and is a health threat to others. § 36-669.

(7) A victim or the parent or guardian of a minor victim of a sexual offense or other crime involving a significant exposure (see Definitions (3)) may request that the arrested person submit to an HIV test and consent to release of the test result to the victim. If such request is submitted, the prosecuting attorney shall petition the court for an order requiring that the person be tested for HIV by the Department of Corrections or the Department of Health Services. Based on the evidence, the court shall determine if a significant exposure occurred. If the court makes such a finding, or, if the act committed against the victim is a sexual offense, it shall order that an HIV test be performed. The Department of Health Services shall notify the victim and person tested of the results of the HIV test and shall counsel them regarding the health implications of the results. Test results shall be released only to the victim of the crime, the person tested, and the Department of Health Services. § 13-1415.

(8) In juvenile criminal cases, on the request of a victim of a delinquent act that may have involved significant exposure or that if committed by an adult, would be a sexual offense, the prosecuting attorney shall petition the court to require that the juvenile be tested for HIV. § 8-341. If the victim is a minor, the prosecuting attorney shall file this petition at the request of the victim's parent or guardian. If it is determined that the act either involved significant exposure, or would have been a sexual offense if committed by an adult, the court shall order that the Department of Youth Treatment and Rehabilitation or the Department of Health Services test the child for HIV. The test results shall be released only to the victim, the delinquent child, the delinquent child's parent or guardian, and the minor victim's parent or guardian, and they shall receive counseling (see Definitions (1)) regarding the meaning and health implications of the

results. § 8-341.

(9) After consultation with the Superintendent of Public Instruction, the Director of the Department of Health Services shall prescribe criteria the Department shall use in deciding whether or not to notify a local school district that a pupil has tested positive for HIV. The Director shall prescribe the procedure by which the Department shall notify a school district if the Department determines that notification is warranted in a particular situation. Prior to notification, the Department must be satisfied that the school district has an appropriate policy relating to nondiscrimination of the infected pupil and confidentiality of test results, and that proper educational counseling has been or will be provided to staff and pupils. § 36-136.

(10) A law enforcement officer, probation officer, surveillance officer, correctional service officer, detention officer, private prison security officer, fire fighter, emergency medical technician, officer or entity may petition the court for an order authorizing testing of another for HIV if there are reasonable grounds to believe and exposure occurs and any of the following applies: a person is charged in any criminal complaint, and the complaint alleges that the person interfered with the official duties of the officer by biting, scratching, spitting or transferring blood or other bodily fluids on or through the skin or membranes of the officer; the person is charged with interfering with the duties of the officer as above, but the person is now deceased. § 13-1210.

(11) It is not an unprofessional act for a physician to report to the Department of Health Services the name of the patient's spouse, sex partner, or person who the patient has shared needles with, if the physician knows that the patient has contracted or tests positive for HIV and that patient has not or will not notify these people. The physician should first consult with the patient and ask them to voluntarily notify the people. This section does not impose a duty to disclose information. §§ 32-1860, 32-2556.

(12) The foster parent, group home staff, foster home staff, relative or other person in whose care the child is placed may not give consent to HIV testing. § 8-514.05.

Criminal (1)

Employment (1)

Insurance (1)

MISCELLANEOUS