

Arkansas

All citations are to “Ark. Code Ann.” unless otherwise noted.

DEFINITIONS

- (1) “Health care provider,” “health care facility,” “HIV,” and “HIV test” are defined at § 20-15-905.
- (2) “Registered disease intervention specialist” is defined at § 17-98-103.
- (3) “Sexual intercourse” is defined at § 5-14-101.

CRIMINAL LAW

- (1) A person commits the offense of knowingly exposing another to HIV (see Definitions (1)) if the person knows he or she has tested positive for HIV and exposes another person to such infection through the transfer of blood or blood products or engages in sexual penetration with another person without first having informed the other person. § 5-14-123.
 - (2) A person found to have HIV must, prior to receiving health care services, advise such physician or dentist of the HIV infection. Failure to so advise is a Class A misdemeanor. § 20-15-903.
 - (3) When an offender is released from a correctional institution, a medical representative of the institution shall notify the offender’s parole officer when the offender has tested positive for HIV or has been diagnosed with AIDS or AIDS-related conditions. § 16-93-1402.
 - (4) Sex offense includes exposing another person to HIV, when ordered by the court to register as a sex offender. § 12-12-903.
- Testing & Reporting (2), (6), (7), (8)

EDUCATION

- (1) Public school and Public Health Department sex education and AIDS prevention programs shall emphasize premarital abstinence as the only means to avoid pregnancy and the sexual contraction of AIDS and other sexually transmitted diseases (STDs). § 6-18-703.
- (2) The Department of Education, the University of Arkansas for Medical Sciences, and the Department of Health shall jointly provide counseling and conduct public seminars to educate the public regarding AIDS. § 20-15-902.

EMPLOYMENT

HOUSING

INSURANCE

RESEARCH

SOCIAL & MEDICAL SERVICES

(1) Disease intervention refers to activities used to prevent transmission of STDs. The Board of Disease Intervention Specialists is created (see Definitions (2)). § 17-98-201. The Board shall administer an examination to such professionals in the field of HIV (see Definitions (1)) and STDs. § 17-98-302. Passing of such examination shall result in receipt of a certificate of registration. § 17-98-303. Certificates of registration shall be issued without examination where the applicant is registered as a disease intervention specialist in another state indicating comparable qualification. § 17-98-303.

(2) The Health Resources Commission (under Public Health and Welfare, Medical Assistance Authority) shall have authority to study the full range of health resources issues including, among many others, the higher-than-average incidence of AIDS in Arkansas as compared to other states. § 20-77-204.

(3) The Board of Health promulgates regulations to provide for the distribution of HIV or AIDS medication to Arkansas citizens who cannot afford their medications. § 20-15-909.

(4) Every person (besides physicians and health care providers) authorized by law to attend to or to provide medical treatment to pregnant women, but not provided to take blood samples, shall cause an approved specimen to be taken, prenatally or at time of delivery for HIV. § 20-16-507.

Criminal Law (2)

Education (2)

Testing & Reporting (2), (3), (4), (5), (6)

TESTING & REPORTING

(1) The Department of Health (Department) shall administer voluntary HIV testing (see Definitions (1)) without charge, maintaining secrecy as to the identity of persons participating. § 20-15-901.

(2) A physician whose patient is determined to be HIV-positive shall immediately report this information to the Department. The information and reports shall be regarded as confidential by all whose duty it is to administer such reports. However, the state may subpoena such information as necessary to enforce the criminal provision relating to exposure of another to HIV (see Criminal Law (1)) and HIV testing of sex offenders (see Testing & Reporting (6)), provided the information so obtained is disclosed only to the court. § 20-15-904.

(3) Informed consent of a patient to HIV testing is not required where a health care

provider or employee of a health care facility (see Definitions (1)) has experienced direct skin or mucus membrane contact with blood or bodily fluids in a manner that might transmit HIV, as determined by a physician in the physician's medical judgment. Such test results are provided to: the agency ordering the test; the health care worker who may have been exposed; the health care worker's physician; the patient; and the patient's physician. Appropriate counseling shall be provided. Informed consent, information, and counseling are not required for an HIV test when the physician judges the test is medically indicated to provide appropriate diagnosis and treatment, provided the patient has otherwise consented to medical treatment. Positive test results must be provided to the patient. Health care providers or facilities may not deny care based upon the results of a HIV test. § 20-15-905.

(4) Reports about all persons with AIDS or who test HIV positive shall be made to the Department by physicians, hospital infection control practitioners, directors of laboratories, directors of state agencies aware of an HIV-diagnosis, medical directors of in-home health agencies or nursing homes, and others required by the rules and regulations of the Department. § 20-15-906.

(5) Anyone that collects blood products for medical distribution shall: inform the donor that the donor's blood shall be tested for HIV and inform the donor of the test results; report a positive test result to the Department for contact tracing and partner notification and to donor referral registries; and use no blood products donation until the donor is found not to be HIV positive. Donors who test positive shall be encouraged to seek medical consultation from their physician or local public health facility. § 20-27-302.

(6) A person arrested and charged with a sexual offense may be required by the court, upon a finding of reasonable cause to believe that the person committed the offense, to be tested for HIV. The HIV test shall be confidentially administered by a physician, the Department, or a local health department. If the victim of the sex offense consents to receiving the test results of the offender, the testing agency shall report the test results directly to the victim and refer the victim to appropriate counseling. Upon the request of a victim, the testing of a convicted sex offender is mandatory and shall be conducted by the Department. The test result shall be released to the defendant and the victim, but shall be otherwise confidential and not subject to disclosure as public information under the Freedom of Information Act. Any victim of a sexual offense shall be provided, upon request, appropriate counseling, HIV testing, and referral to appropriate health care and support services. § 16-82-101.

(7) A person arrested and charged with committing an assault or battery upon a law enforcement officer, fire fighter, or emergency medical technician (see §§ 5-13-101 et seq.) may be required by the court, upon a finding of reasonable cause to believe that the person committed the offense, to be tested for HIV. The test shall be confidentially administered by a physician, the Department, or a local health department. If a victim

consents to receiving such information, the testing agency shall report the test results directly to the victim and refer the victim to appropriate counseling. § 16-82-102.

(8) The Department of Correction is authorized to establish a program for intensive treatment of deviant sexual behavior of inmates and to screen for STDs. § 12-29-406.

Criminal Law (2), (3)

MISCELLANEOUS