

California

DEFINITIONS

(1) “AIDS” is defined at Health & Safety Code §§ 120775, 121125, 121305, 1603.1, Penal Code § 7502, and Welf. & Inst. Code § 14503.5.

(2) “AIDS vaccine” is defined at Health & Safety Code §§ 121270, 121305.

(3) “Attending physician of the source patient,” “available blood,” “certifying physician,” “exposed individual,” “health care provider,” “first responder,” “other potentially infectious materials,” “significant exposure,” and “source patient” are defined at Health & Safety Code § 120261.

(4) “Blood,” as it pertains to felonious blood donation, is defined at Health & Safety Code § 1621.5.

(5) “Blood components” and “plasma center” are defined at Health & Safety Code § 1603.1.

(6) “Board,” “damages for personal injuries,” and “Fund” are defined at Health & Safety Code § 121270.

(7) “Care and supervision,” “chronic, life-threatening illness,” and “residential care facility” are defined at Health & Safety Code § 1568.01.

(8) “Certificate,” “disability income insurance,” “ELISA,” “HIV antibody test,” “life or disability income insurer,” “policy,” “positive ELISA test,” “reactive Western Blot Assay,” and “Western Blot Assay” are defined at Ins. Code § 799.01.

(9) “Committee,” “grant award,” “research subject,” and “researcher” are defined at Health & Safety Code § 121305.

(10) “Cooperative agreement” includes agreements to which the California AIDS Program is a party. Health & Safety Code § 38072.

(11) “Correctional institution,” “counseling,” “law enforcement employee,” “inmate,” and “bodily fluids,” as they pertain to HIV testing of prisoners, are defined at Penal Code § 7502.

(12) “Disclosed,” and “confidential research record” are defined at Health & Safety Code § 121125.

(13) “Disclosure” is defined at Health & Safety Code § 121280.

(14) “Eligible child” is defined at Welf. & Inst. Code § 16135.1.

(15) “Health care worker,” as it pertains to occupational illness, is defined at Lab. Code § 3208.05.

(16) “HIV,” and “HIV test” are defined at Health & Safety Code § 120775, Penal Code § 7502, and Welf. & Inst. Code § 14503.5.

(17) “HIV and AIDS prevention education” is defined at Educ. Code § 51931.

(18) “HIV positive,” as it pertains to services for children who are HIV positive, is defined at Welf. & Inst. Code § 16135.1.

- (19) “Medical director” is defined at Health & Safety Code § 1250.4.
- (20) “Medically fragile” is defined at Health & Safety Code § 1760.2.
- (21) “Point of sale,” as it relates to sellers of alkyl nitrates, is defined at Health & Safety Code § 120870.
- (22) “Public entity” is defined at Health & Safety Code § 1603.4.
- (23) “Reportable incident,” and “source person,” as they pertain to HIV testing of prisoners, are defined at Penal Code § 7554.
- (24) “Serious medical condition” is defined at Health & Safety Code § 11362.7.
- (25) “Sexual activity,” and “unprotected sexual activity,” as they relate to willful exposure to HIV, are defined at Health & Safety Code § 120291.
- (26) “Sexual offense” is defined at Penal Code § 1202.1.
- (27) “Specialized in-home health care” is defined at Welf. & Inst. Code § 16135.1.
- (28) “Target population” includes low income individuals living with HIV or AIDS. Health & Safety Code § 53260.
- (29) “Unlinked testing” is defined at Health & Safety Code § 120990.

CRIMINAL LAW

(1) Any person who willfully or negligently discloses HIV test (see Definitions (17)) results to a third party in a manner which identifies or provides identifying characteristics of the test subject, except pursuant to written authorization or an express provision for exemption, that results in economic, bodily, or psychological harm to the test subject is guilty of a misdemeanor, punishable by imprisonment or a fine, or both.

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Health & Safety Code § 120980.

(2) It is a felony punishable by imprisonment for any person diagnosed with AIDS (see Definitions (1)) or who has tested reactive to the etiologic agent of AIDS or antibodies, whether a paid volunteer or donor, to knowingly donate blood (see Definitions (4)), semen, breast milk, body organs, or other tissue to any medical center or semen or breast milk bank. Persons who are mentally incompetent, who self-defer blood at a blood bank, or who donate blood for autologous transfusion shall not be charged with the felony. In a criminal investigation for such felony, no person shall disclose test results to any officer, employee, or agent of a state or local agency or department unless the test results are disclosed (see Definitions (12)) as otherwise provided by law or pursuant to a search warrant, a subpoena, or a court order. Health & Safety Code § 1621.5.

(3) Any person who commits rape, unlawful intercourse with a female under age eighteen, spousal rape, sodomy, or oral copulation with knowledge that he or she has AIDS or carries antibodies to HIV (see Definitions (16)) at the time of commission of the offense shall receive a three year enhancement for each such violation in addition to

the sentence provided for the specific offense. Penal Code § 12022.85.

(4) Any person who negligently or willfully violates the provisions requiring prior written informed consent of research subjects in a research study relating to AIDS, is guilty of an infraction punishable by a fine of \$25. Any person who maliciously discloses the content of any confidential research record to a third party which results in economic, bodily, or psychological harm to the research subject shall be guilty of a misdemeanor punishable by imprisonment in the county jail for not more than one year or a fine not to exceed \$10,000 or both. Health & Safety Code § 121110.

(5) Any person who willfully discloses personal identifying data of a defendant charged with a criminal complaint who is tested due to the nature of the crime (see Testing & Reporting (10)) to a person not authorized by statute or court order to receive it, except with the written consent of the tested individual, is guilty of a misdemeanor. Health & Safety Code § 121070.

(6) Any person who files a false report of sexual assault in order to obtain test result information shall be guilty of a misdemeanor. Any person who files a false report and discloses test result information shall be guilty of an additional misdemeanor. Penal Code § 1524.1.

(7) Any person who commits an offense involving intravenous use or possession of a controlled substance, illicit possession of a hypodermic needle, sale of a hypodermic needle by an unauthorized individual, lewd or dissolute conduct in a public place, or soliciting or engaging in prostitution shall be required to agree to participate in an AIDS education program as a condition of placing the offender on probation or of permitting the offender to participate in a drug diversion program (see Education (10)). Penal Code

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§ 1001.10.

(8) Accusatory pleadings for prostitution shall contain notice of both previous conviction and positive result on HIV blood test administered pursuant to statute (see Testing & Reporting (21), (22)). If the previous conviction and blood test results are found true by the trier of fact, the defendant is guilty of a felony. Penal Code § 647f.

(9) Any person who willfully or negligently discloses the results of an HIV antibody test given as a result of an application for insurance to a third party in a manner which identifies the test subject, except pursuant to a written authorization, which results in economic, bodily, or psychological harm to the test subject is guilty of a misdemeanor punishable by imprisonment in the county jail for up to one year and by a fine not to exceed \$10,000. Ins. Code § 799.10.

(10) In addition to punishment for rape, unlawful sexual intercourse with a minor, spousal rape, lewd conduct, prostitution, or intravenous drug use, a judge may assess an additional fine with the proceeds to be used for AIDS education on either the city or county level. Penal Code §§ 264, 647.1.

(11) Commission of any specified sex act with knowledge that the defendant has HIV or AIDS at the time of the commission of the offense allows for a sentence enhancement of one, two, or three years in the state prison. Penal Code § 666.7.

(12) Any person who exposes another to the HIV by engaging in unprotected sexual activity (see Definitions (25)) when the infected person knows at the time of the unprotected sex that he or she is infected with HIV, has not disclosed his or her HIV-positive status, and acts with the specific intent to infect the other person with HIV, is guilty of a felony punishable by imprisonment in the state prison for three, five or eight years. Evidence that the person had knowledge of his or her HIV-positive status without additional evidence, shall not be sufficient to prove specific intent. Health & Safety Code § 120291.

Education (10), (11)

Research (1), (2), (3), (13)

Social & Medical Services (16), (17), (18), (42)

Testing & Reporting (3), (8), (9) (10), (11), (13), (15), (20), (21), (22), (23), (24), (25), (26), (27), (32), (37)

Miscellaneous (3)

EDUCATION

(1) School districts may provide comprehensive sexual health education in any kindergarten to grade twelve using instructors trained in the appropriate courses. A school district that elects to offer comprehensive sexual health education shall satisfy all of the following criteria: instruction and materials shall be age appropriate; all factual information presented shall be medically accurate and objective; instruction shall be made available on an equal basis to a pupil who is an English learner; instruction and materials shall be appropriate for use with pupils of all races, genders, sexual orientations, ethnic and cultural backgrounds, and pupils with disabilities; instruction and materials shall be accessible to pupils with disabilities; instruction and materials shall encourage a pupil to communicate with his or her parents about human sexuality; and instruction and materials shall teach respect for marriage and committed relationships. Commencing in grade seven, the following criteria shall be satisfied: instruction and materials shall teach that abstinence from sexual intercourse is the only certain way to prevent both unintended pregnancy and sexually transmitted diseases (STDs); instruction and materials shall provide information about STDs, the effectiveness and safety of all Food & Drug Administration (FDA)-approved contraceptive methods, and information on the law on surrendering physical custody of a minor child seventy-two hours or younger. Instruction and materials shall also provide pupils with skills for making and implementing responsible decisions about sexuality. Instruction and materials for any grade level may not teach or promote religious doctrine

and may not reflect or promote bias against any person on the basis of a protected category. Educ. Code § 51933.

(2) A school district shall ensure that all pupils in grades seven to twelve, inclusive, receive HIV and AIDS prevention education (see Definitions (17)) from instructors trained in the appropriate courses. Each pupil shall receive this instruction at least once in junior high or middle school and at least once in high school. HIV and AIDS prevention education must include: information on the nature of HIV (see Definitions (16)) and AIDS (see Definitions (1)) and their effects on the human body; information on the manner in which HIV is and is not transmitted, including information on activities that present the highest risk of HIV infection; discussion of the methods to reduce the risk of HIV infection. This instruction shall emphasize that sexual abstinence, monogamy, the avoidance of multiple sexual partners, and abstinence from intravenous drug use are the most effective means for HIV and AIDS prevention, but shall also include statistics based upon the latest medical information citing the success and failure rates of condoms and other contraceptives in preventing sexually transmitted HIV infection, as well as information on other methods that may reduce the risk of HIV transmission from intravenous drug use. Instruction must also include: discussion of the public health issues associated with HIV and AIDS; information on local resources for HIV testing and medical care; development of refusal skills to assist pupils in overcoming peer pressure and using effective decisionmaking skills to avoid high-risk activities; and discussion about societal views on HIV and AIDS, including stereotypes and myths regarding persons with HIV and AIDS. This instruction shall emphasize compassion for person living with HIV or AIDS. Educ. Code § 51934.

(3) A school district shall cooperatively plan and conduct in-service training for all school district personnel that provide HIV and AIDS prevention education. In developing and providing in-service training, a school district shall cooperate and collaborate with the teachers of the district who provide HIV and AIDS prevention education and with the Department of Education. In-service training shall be conducted periodically to enable school district personnel to learn new developments in the scientific understanding of HIV and AIDS. A school district may expand HIV and AIDS in-service training to cover the topic of comprehensive sexual health education. Educ. Code § 51935.

(4) It is the intent of the legislature to encourage pupils to communicate with their parents or guardians about human sexuality and HIV and AIDS, and to respect the rights of parents or guardians to supervise their children's education on these subjects. The legislature intends to create a streamlined process to make it easier for parents and guardians to review materials and evaluation tools related to comprehensive sexual health education and HIV and AIDS prevention education. Educ. Code § 51937.

(5) A parent or guardian of a pupil has the right to excuse their child from all or part of comprehensive sexual health education, HIV and AIDS prevention education, and

assessments related to that education, as follows: at the beginning of each school year, or at the time of the pupil's enrollment, each school district shall notify the parent or guardian of each pupil about instruction in comprehensive sexual health education and HIV and AIDS prevention education; advise the parent or guardian that written and audio visual educational materials used in comprehensive sexual health education and HIV and AIDS prevention education are available for inspection; advise the parent or guardian whether the comprehensive sexual health education or HIV and AIDS prevention education will be taught by school district personnel or by outside consultants; and advise the parent or guardian that the parent or guardian may request in writing that his or her child not receive comprehensive sexual health education or HIV and AIDS prevention education. Educ. Code § 51938.

(6) A pupil may not attend any class in comprehensive sexual education or HIV and AIDS prevention education, or participate in any anonymous, voluntary, and confidential test, questionnaire, or survey on pupil health behaviors and risks, if the school has received a written request from the pupil's parent or guardian excusing the pupil from participation. A pupil may not be subject to disciplinary action, academic penalty or other sanction if the pupil's parent or guardian declines to permit the pupil to receive comprehensive sexual health education or HIV and AIDS prevention education or to participate in anonymous, voluntary, and confidential test, questionnaires, or surveys on pupil health behaviors and risks. While comprehensive sexual health education, HIV and AIDS prevention education, or anonymous, voluntary, and confidential test, questionnaire, or survey on pupil health behaviors and risks is being administered, an alternative educational activity shall be made available to pupils whose parents or guardians have requested that they not receive the instruction or participate in the test, questionnaire, or survey. Educ. Code § 51939.

(7) The legislature intends to fund specified pilot AIDS education programs, implement and evaluate preventative education programs, and promote education of health care practitioners. Health & Safety Code § 120800.

(8) Counties shall be reimbursed for funds used to develop preventative education programs for individuals who test positive for HIV. The Department of Health Services shall issue contracts to evaluate the effectiveness of AIDS information and education programs and contracts for development and implementation of pilot programs for professional education and training of hospital, home health agency, and attendant care workers. In addition, the Department of Health Services shall promote information and education programs for the general public to correct misinformation about AIDS and establish centralized translation services to facilitate the development of multilanguage, culturally relevant educational materials on HIV infection. Health & Safety Code § 120805.

(9) The Department of Education shall provide information to school districts on AIDS and AIDS-related conditions including methods which school employees may use

to prevent exposure to AIDS. Health & Safety Code §§ 120875 to 80.

(10) Each county health department shall select an agency or agencies in the county to provide AIDS prevention education to those persons on probation or participating in a mandatory drug diversion program. Such AIDS prevention programs shall at a minimum include details about the following subjects: the transmission of HIV; symptoms of AIDS and AIDS-related conditions; prevention through avoidance or cleaning of needles; sexual practices which constitute high risk, low risk, and no risk, including abstinence; and resources for persons who test positive for HIV. A person participating in a mandatory drug diversion program shall not be required to participate in an AIDS prevention education program provided that the drug diversion program includes an AIDS prevention education component. Penal Code § 1001.11.

(11) Fifty dollars out of each fine imposed for advertising by a nonresident pharmacist, unlawful possession of a controlled substance, rape, sodomy, oral copulation, or prostitution shall be used exclusively to pay for establishing and providing for AIDS education programs. Penal Code § 1463.23.

(12) The legislature intends for the school districts to give high priority to gang violence and drug and alcohol abuse prevention in-service training programs. Gang violence and drug and alcohol abuse prevention in-service training includes training on the risk of contracting AIDS associated with intravenous drug use. Educ. Code § 51265.

(13) The authority shall establish standards for continuing education of pre-hospital personnel and shall consider including training regarding the characteristics and method of assessment and treatment of AIDS. Health & Safety Code § 1797.175.

(14) The Department of Social Services shall develop and implement curricula on AIDS and STD protection. Welf. & Inst. Code § 903.8.

Criminal Law (8), (11), (12)

Social & Medical Services (1), (2), (3), (5), (6), (8), (10), (12), (14), (15), (17), (18), (21)

Testing & Reporting (8), (22), (28)

Miscellaneous (1), (3)

EMPLOYMENT

(1) An injury compensable under workers' compensation includes a reaction to or a side effect arising from health care provided by an employer to a health care worker (see Definitions (15)) where the health care is intended to prevent the development or manifestation of any bloodborne disease recognized as occupationally incurred by California Division of Occupational Safety and Health, the Centers for Disease Control (CDC), or other governmental entities. Such preventative health care must be provided prior to an exposure or as a consequence of a documented exposure to blood or bodily fluid containing HIV. Such benefits shall not be provided if the worker claims a work-

related exposure and tests positive for HIV within forty-eight hours of that exposure. Lab. Code § 3208.05.

(2) The Board of Occupational Therapy may discipline or deny a licensee for the knowing failure to protect patients by failing to follow infection control guidelines of the board, risking transmission of bloodborne infectious diseases from licensee to patient, patient to patient, or from licensee to licensee. Bus. & Prof. Code § 2570.28.

Criminal Law (2)

Education (9)

Insurance (1), (2)

Research (6)

Testing & Reporting (7), (9), (11), (24), (27)

Miscellaneous (2), (3)

HOUSING

(1) No cause of action arises against an owner of real property or his or her agent for the failure to disclose to the transferee that the occupant of the property was afflicted with or died from AIDS (see Definitions (1)). Civil Code § 1710.2.

(2) The Department of Health Services may provide supplemental funding to residential AIDS shelters and licensed residential care facilities for persons with a chronic life-threatening illness. Health & Safety Code § 120815.

(3) Services provided by licensed congregate living health facilities to individuals diagnosed with AIDS are covered under the Medi-Cal benefits program. Welf. & Inst. Code § 14132aa.

Social & Medical Services (11), (15), (16), (17), (22)

Testing & Reporting (24), (28)

Miscellaneous (3)

INSURANCE

(1) No health care service plan, disability insurer, nonprofit hospital service plan, self-insured employee welfare benefit plan, or life insurer may withhold any settlement or coverage of an individual solely because of the individual's participation in an HIV (see Definitions (16)) or AIDS (see Definitions (1)) vaccine clinical trial. The sponsor of any such trial shall submit a confidential certificate to the Department of Health Services, which the Department shall endorse and return to the vaccine recipient. Release of a confidential certificate shall be by written authorization of the vaccine recipient or another person designated in the written certificate. Health & Safety Code § 121280.

(2) No insurer shall consider sexual orientation in its underwriting criteria or utilize marital status, living arrangements, occupation, gender, beneficiary designation, zip

codes or other territorial classification for the purpose of establishing sexual orientation or determining whether to require HIV testing where that testing is otherwise permitted by law. Ins. Code § 10140.

(3) The Commissioner of Insurance shall not approve any health care service plan contract unless the application contains a prominently displayed notice that shall read: “California law prohibits an HIV test from being required or used by health care service plans [or health insurance companies] as a condition for obtaining coverage.” Health & Safety Code § 1389.1, Ins. Code § 10291.5.

(4) Delaying the payment or provision of hospital, medical, or surgical benefits for services provided with respect to AIDS or AIDS-related complex for more than sixty days after the insurer has received a claim for those benefits, where the purpose of the delay is an investigation to determine whether the condition preexisted the coverage, shall be considered an unfair method of competition and an unfair and deceptive act or practice in the insurance business. Ins. Code § 790.03.

(5) A life or disability income insurer may decline a life or disability income insurance application on the basis of a positive ELISA test (see Definitions (8)) followed by a reactive Western Blot Assay (see Definitions (8)) performed by or at the direction of an insurer on the same specimen of the applicant’s blood. This authorization applies only to policies, certificates, and applications for coverage received after 1989 and the issuance or granting of which is otherwise contingent on medical review for other diseases or medical conditions in order to be effective. Ins. Code § 799.02. An insurer that requests an applicant to take an HIV test (see Definitions (16)) shall obtain the applicant’s written informed consent for the test. Prior to the applicant’s execution of consent the insurer shall provide the applicant material describing HIV, its symptoms, causes, spread, tests used to detect its presence, and what to do if test results are positive. The insurer shall notify the applicant of a positive test result by notifying the applicant’s designated physician. The Commissioner of Insurance shall develop standardized language for the informed consent disclosure form. Ins. Code § 799.03. A life or disability income insurer may not require an applicant to undergo an HIV antibody test (see Definitions (8)) unless the cost is borne by the insurer. Ins. Code § 799.04.

(6) No life or disability income insurer shall consider the marital status or known or suspected homosexuality or bisexuality of an applicant in determining whether to require an HIV antibody test of that applicant. Ins. Code § 799.05.

(7) No application for life or disability income insurance shall contain a question pertaining to prior testing for HIV antibodies unless the question is limited in scope to prior testing for the purpose of obtaining insurance. Ins. Code § 799.06.

(8) If an applicant has had a positive ELISA test result or a reactive Western Blot Assay or both, a life or disability income insurer shall not report a code to an insurance support organization or another insurer unless a nonspecific blood test result code is used

which does not indicate that the individual was subject to HIV-related testing. Ins. Code § 799.07.

(9) No policy or certificate shall limit benefits otherwise payable if loss is caused or contributed to by AIDS or AIDS-related complex unless the insurer could have declined the application or enrollment request of the insured (see Insurance (5)). Ins. Code § 799.08.

(10) No life insurance or disability income insurer shall require an HIV antibody test if the results of the test would be used exclusively for the purpose of determining eligibility for hospital, medical, or surgical insurance coverage under a nonprofit hospital service plan or health care service plan. Ins. Code § 799.09.

(11) Every individual or group health care service plan contract that is issued, amended, or renewed on or after January 1, 2002, that covers hospital, medical, or surgery expenses shall provide coverage for an AIDS vaccine (see Definitions (2)) that is approved by the FDA. Health & Safety Code § 1367.45.

(12) Every health care service plan shall establish and implement a procedure by which an enrollee with a condition or disease that requires specialized medical care over a prolonged period of time and is life-threatening, degenerative, or disabling may receive a referral to a specialist or specialty care center that has expertise in treating the condition or disease for the purpose of having the specialist coordinate the enrollee's health care. In this context, AIDS is a life-threatening, degenerative or disabling disease. Health & Safety Code § 1374.16.

(13) Every policy for insurance that is issued, amended, or renewed on or after July 1, 2002, that covers hospital, medical, or surgery expenses shall provide coverage for an FDA-approved AIDS vaccine. Ins. Code § 10145.2.

Criminal Law (9)

Research (6)

Testing & Reporting (31)

Miscellaneous (3)

RESEARCH

(1) Research records in a personally identifying form, developed or acquired by any person in the course of conducting AIDS (see Definitions (1)) research, shall be confidential. Confidential research records (see Definitions (12)) shall not be disclosed (see Definitions (12)), discoverable, or compelled to be produced by any person unless a court finds there is good cause or a reasonable likelihood that the records in question will disclose material information or evidence of substantial value in connection with a criminal charge against a research subject (see Definitions (9)), and there is no other practicable way of obtaining the information. Health & Safety Code §§ 121075, 121100.

(2) Confidential research records may be disclosed with the prior written consent of

the research subject but only to the extent, under the circumstances, and to the persons authorized in the written consent. Any authorized disclosure (see Definitions (13)) shall contain a statement describing the limits on disclosure and explaining that violation of the confidentiality of the record may subject a person to civil or criminal liability (see Criminal Law (4)). Health & Safety Code § 121080. The contents of confidential research records may be disclosed without prior written consent to medical personnel as necessary in a bona fide medical emergency and to the Department of Health Services (Department) as necessary to conduct special investigations. Health & Safety Code

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§ 121090. Within thirty days of a request, the content of any confidential research record shall be disclosed to the research subject, the legal representative of the research subject if the research subject is a minor, or the personal representative of a deceased research subject to whom the record pertains. Health & Safety Code § 121095.

(3) Confidential research records shall be protected in the course of conducting financial audits or program evaluations. Authorized disclosure of confidential research records shall be made on a case-by-case basis, to the extent it is necessary for audit personnel to know the identity of individual research subjects. Information disclosed for audit or evaluation purposes should be used only for audit and evaluation purposes and may not be redisclosed or used in any other way. No civil liability or criminal sanctions shall be imposed for disclosure of confidential research records in accordance with any reporting requirements for a diagnosed case of AIDS. Health & Safety Code § 121085.

(4) Prior to participation in a research study relating to AIDS, the informed consent of each research subject shall be obtained, and each research subject shall be provided with a written explanation of the rights and responsibilities of researchers (see Definitions (9)) and research subjects. Health & Safety Code § 121105.

(5) Any person who willfully or maliciously discloses the content of any confidential research record to a third party shall be assessed a civil penalty of \$1,000 to \$5,000 plus actual damages and court costs, to be paid to the research subject. Health & Safety Code § 121110.

(6) In the event that the participation of an individual in a research study is disclosed, the information shall not be used to determine employability or insurability of the research subject. Health & Safety Code § 121115.

(7) Disclosure of information in order to further research efforts, including publication, dissemination, or sharing of data, statistics, or case studies is permissible so long as no confidential research records are disclosed. Health & Safety Code § 121120.

(8) In making determinations on requests for approval of drugs or for requests for exemptions from approval requirements, the Department shall employ persons to conduct reviews for approval or exemption. The AIDS Vaccine Research and Development Advisory Committee (see Definitions (9)) shall review and advise the

Department. No person may contract with the Department for review of a request if that person has a financial interest or a conflict of interest involving the drug being evaluated. Health & Safety Code § 111605.

(9) The legislature intends to encourage research on the effectiveness of RU-486 in treating AIDS. Health & Safety Code § 439.905.

(10) The California Marijuana Research Program shall develop and conduct studies intended to ascertain the general medical safety and efficacy of marijuana and, if found valuable, shall develop medical guidelines for the appropriate administration and use of marijuana. The program may solicit proposals for research projects for persons diagnosed with HIV (see Definitions (16)) or AIDS. Health & Safety Code § 11362.9.

(11) State agencies shall include in appropriate periodic progress reports, data to the extent to which state funds administered by those agencies are used by grantees to support research on diseases, disorders and health conditions that includes women and minorities in the research trials, and this research shall include HIV and AIDS. Health & Safety Code § 100239.

(12) The AIDS Advisory Committee shall be composed of eight members who have knowledge or expertise in the area of public health or AIDS research. Health & Safety Code § 121150. The committee may review and recommend approvals for grant applications and monitor programs receiving grants. Health & Safety Code § 121165. The director may award grants to individuals, organizations and facilities for activities that may include public education to reduce panic and lessen unnecessary anxiety about AIDS among California residents and interdisciplinary workshops to facilitate the interchange of knowledge among investigators regarding AIDS and related disorders. Health & Safety Code § 121170. The legislature intends for the Department to make every effort possible to insure a comprehensive and diverse expert representation on the committee. Health & Safety Code § 121335.

(13) AIDS research may be conducted on prisoners, provided it is voluntary, anonymous and confidential. Penal Code § 3502.

Criminal Law (4)

Social & Medical Services (2), (6)

Testing & Reporting (5), (13), (14), (15)

Miscellaneous (3), (4), (5), (6), (9)

SOCIAL & MEDICAL SERVICES

(1) Licensing boards shall consider including training regarding the characteristics and methods of assessment and treatment of AIDS (see Definitions (1)) in any continuing education or training requirements for the following licensees: chiropractors; medical laboratory technicians; dentists; dental hygienists; dental assistants; physicians and surgeons; podiatrists; registered nurses; therapists; acupuncturists; marriage and

family therapists; educational psychologists; and clinical social workers. Bus. & Prof. Code § 32.

(2) The AIDS Advisory Committee shall advise and assist the state in addressing the public health issues associated with AIDS and shall work with the Department of Health Services (Department) in statewide efforts to promote primary prevention, public education, and the advancement of knowledge regarding AIDS. Health & Safety Code § 121160.

(3) The Compassionate Use Act of 1996 ensures that seriously ill Californians have the right to obtain marijuana for medical purposes where that medical use is deemed appropriate and has been recommended by a physician who has determined that the person's health would benefit from the use of marijuana in the treatment of AIDS. Health & Safety Code § 11362.5.

(4) The knowing failure of a licensee to follow infection control guidelines of a licensing board, thereby risking transmission of blood-borne infectious diseases from licensee to patient, from patient to patient, or from patient to licensee shall be considered unprofessional conduct for which the licensee may be subject to disciplinary action including denial, suspension, revocation, or imposition of probationary conditions on the professional license. Bus. & Prof. Code §§ 1680, 2660, 2761, 2878, 3527, 3750, 4521, 4955.

(5) The Office of AIDS in the Department shall be the lead agency within the state responsible for coordinating programs, services, and activities relating to HIV (see Definitions (16)), AIDS, and AIDS-related conditions. Health & Safety Code § 100119. The Office of AIDS may do the following: perform strategic planning for implementation of goals and objectives for women's health; coordinate pilot projects funded by the state that are related to women's health; conduct departmental policy analysis on specific issues related to women's health; identify unnecessary duplication of services and future service needs; communicate and disseminate information and perform a liaison function within the Department and to providers of health, social, educational, and support services to women; perform internal staff training and training of health care professionals to ensure more appropriate care; serve as a clearinghouse for information regarding women's health data, strategies, and programs that address women's health issues; encourage innovative response by public and private entities that are attempting to address women's health issues; and provide technical assistance to counties, other public entities, and private entities seeking to obtain funds for initiatives in women's health. Health & Safety Code § 138.

(6) The Director of Health Services shall award contracts to early intervention projects to provide long-term services to persons infected with HIV. The purposes of early intervention projects shall be: to provide appropriate medical treatment to prevent or delay the progression of disease that results from HIV infection; to coordinate services available to HIV-infected persons; and to provide information and education, including

behavior change support, to HIV-infected persons to prevent the spread of HIV infection to others. Projects shall accommodate the special needs of clients by taking into account the circumstances that placed them at risk for becoming infected with HIV. Early intervention projects awarded contracts shall provide all of the following services: health assessment of infected persons; health education and behavior change support related to reducing the risk of spreading HIV and to maximize the healthy and productive lives of HIV-infected persons; psychosocial counseling services; information and referral for social services; information on available research for the treatment of HIV infection; covered outpatient preventative or therapeutic health care services related to HIV infection; and case management. Health & Safety Code § 120900.

(7) The Director of the Department shall establish and may administer a program to provide drug treatments to persons infected with HIV. Health & Safety Code §§ 120950, 120960, 120965.

(8) The Department shall: issue contracts for the development and implementation of pilot programs to reduce the spread of AIDS through residential detoxification and treatment services for intravenous drug users with AIDS; monitor state and federal AIDS-related policy and budget developments; develop and maintain an information clearinghouse to inform health professionals or community organizations providing services to people with AIDS of the status of current or new clinical drug trials; review, edit, and input summaries from scientific journals into the Computerized AIDS Information Network (CAIN) and do outreach about CAIN availability to health professionals; develop and conduct a needs assessment of the availability of supportive services to people with AIDS; prepare a report to the legislature on the feasibility of coordinating various levels of health care which would serve persons with HIV infection; and include in HIV surveillance and reporting a breakdown of the major Asian-Pacific Islander subgroup populations affected by HIV, newly identified clinical manifestations of HIV, and available resources for health care practitioners to seek diagnostic and treatment information. Health & Safety Code § 120805.

(9) Pilot projects to demonstrate the cost effectiveness of home health, attendant, or hospice care shall be initiated through a block grant program. Contractors receiving direct service block grants shall: encourage broad-based community involvement and support for AIDS programs; ensure that proposed services are not duplicated in the community and are based on the needs of people with AIDS, at risk communities, their families, and others affected by AIDS; and develop a comprehensive system of services provided either directly or through referrals. Health & Safety Code § 120830.

(10) The Department of Mental Health shall establish an AIDS mental health project including but not limited to the following activities: statewide needs assessment of AIDS-related mental health issues; education and training for mental health professionals throughout the state; and media campaigns on the use of support groups, the relationship of stress and the immune system, and dealing with grief. Health &

Safety Code § 120840.

(11) Local agency operated AIDS-related substance abuse programs shall initiate pilot programs to reduce the spread of AIDS. Such programs shall include: residential detoxification programs for intravenous drug users; outpatient detoxification programs; AIDS and substance abuse information, consultation, and resource referral; and outreach, health promotion, health assessment, consultation, and referral for homeless youth substance abusers. Health & Safety Code § 120845.

(12) The Department shall, in coordination with the Department of Alcohol and Drug Programs, develop a plan which addresses the need for a program of AIDS primary prevention, health, education, testing, and counseling specifically designed for women and children which shall be integrated into other family, children, genetic health, STD, and community care programs. The AIDS-related services which shall be addressed in the plan shall include but not be limited to providing education appropriate to the cultural background of the clientele and making available confidential HIV antibody testing (see Definitions (8)) and counseling either on site or by referral. Health & Safety Code § 120860.

(13) The Department shall develop written guidelines and regulations to minimize the risk of bloodborne infectious disease transmission from health care worker to patient, from patient to patient, and from patient to health care worker. Health & Safety Code § 1250.11.

(14) Each skilled nursing or intermediate care facility shall consider including training regarding the characteristics, methods of assessment, and treatment of AIDS. Health & Safety Code § 1337.1.

(15) The Director of Health Services shall ensure that within six months after obtaining licensure, an administrator of an adult residential facility and a program director of a social rehabilitation facility shall receive three hours of training on the needs of residents who may be infected with HIV or tuberculosis. Administrators and program directors shall attend updated training sessions every two years to ensure that information received on HIV remains current. Health & Safety Code § 1562.5. The Department of Social Services shall ensure that personnel responsible for licensing applications for residential care facilities (see Definitions (7)) for persons with chronic life-threatening illnesses (see Definitions (7)) receive periodic training regarding the most recent developments in the HIV epidemic and the care and supervision (see Definitions (7)) of people with HIV. Health & Safety Code § 1568.041.

(16) The sheriff of each county shall provide inmates who have been sentenced for drug-related offenses with information about behavior that places a person at risk for contracting HIV and about prevention of transmission of AIDS. The sheriff of each county or the chief probation officer and the Director of Corrections shall provide inmates who have been sentenced for drug-related offenses who are within one month of release or who have been placed on probation or parole with information about behavior

that places a person at risk for contracting HIV, prevention of transmission of AIDS, and agencies and facilities that provide testing, counseling, medical, and support services for AIDS victims. Penal Code § 4018.1. The Director of Corrections shall provide all inmates at each penal institution with information about behavior that places a person at high risk for contracting HIV and about prevention of transmission of AIDS. Penal Code § 5008.1.

(17) It is recommended that every city or county correctional, custodial, and law enforcement agency which tests prisoners for HIV also have a comprehensive AIDS prevention and education program. Goals of such a program include education, body fluid precautions, separate housing for infected individuals, and adequate AIDS medical services. Penal Code § 7552.

(18) The Director of the Youth Authority shall provide all wards at each penal institution, including camps, with information about behavior that places a person at high risk for contracting HIV and about the prevention of transmission of AIDS. The director shall provide all wards who are within one month of release or being placed on parole with information about agencies and facilities that provide testing, counseling, medical, and support services for AIDS victims. Welf. & Inst. Code § 1123.

(19) Any drug which is approved by the FDA for use in the treatment of AIDS shall be deemed approved for addition to the Medi-Cal list of contract drugs only for the purpose of treating AIDS. In addition, any drug that meets the following criteria shall be a Medi-Cal benefit subject to utilization controls: any vaccine to protect against HIV infection; any drug or biologic used to treat opportunistic infections associated with AIDS that is either FDA approved or recognized for that use by the American Medical Association Drug Evaluations, the United States Pharmacopoeia Information, or at least two articles from peer reviewed medical journals; any antiviral agent, immune modulator, or other agent administered to people with HIV to counteract the effect of the infection; or any drug or biologic used to treat the chemotherapy-induced suppression of the human immune system resulting from treatment of AIDS. Welf. & Inst. Code §§ 14105.43, 14105.435.

(20) Medically necessary inpatient and outpatient services associated with the administration of any drug that has been classified by the Department of Social Services or the FDA as having Investigational New Drug (IND) status shall be covered under the Medi-Cal benefits program when the drug is being administered to otherwise eligible persons for the treatment of AIDS, AIDS-related complex, or HIV. Welf. & Inst. Code § 14137.6.

(21) The legislature intends that family planning clients, including those clients seeking diagnosis and treatment for a STD, learn how to prevent the transmission of HIV. Any family planning clinic that has a grant from the Office of Family Planning to provide family planning services shall provide brochures or other written materials which describe ways of becoming infected with HIV and methods of preventing

transmission of HIV infection. Family planning clinics shall also provide clients with information about referrals to anonymous and confidential testing and counseling sites, educational programs, and other support services. Welf. & Inst. Code § 14503.5.

(22) The Department of Social Services shall implement a demonstration project for specialized in-home health care (see Definition (27)) services for children who are exposed to alcohol or drugs or who are HIV positive (see Definitions 18)). Welf. & Inst. Code § 16525.25. Each participating county shall recruit foster families whose homes shall be licensed as foster family homes and who shall be trained to care for children who are alcohol or drug exposed or who are HIV positive. Welf. & Inst. Code § 16525.11. Counties may provide the same training to relatives who are caretakers of eligible children (see Definitions (14)) if the county's allocations permit. Welf. & Inst. Code § 16525.13.

(23) The Department, in consultation with the Department of Alcohol and Drug Programs, shall review and report on existing programs administered by the two Departments that provide services to persons with AIDS or persons at risk for becoming infected with HIV to identify whether or not there are unmet needs in targeting these programs to substance abusers, racial and ethnic minority groups, and women. The Departments shall consider the provision of care to such groups in programs outside of a general acute care hospital setting. Health & Safety Code § 120865.

(24) It is the intent of the legislature to encourage local communities to enter into partnerships that expand and strengthen supportive housing opportunities for very low income Californians with disabilities such as HIV and AIDS. Health & Safety Code § 53250.

(25) The purpose of this chapter is to establish a program for special training and services to facilitate the adoption of children who are HIV positive. Welf. & Inst. Code § 16135. The Department shall establish a program of specialized training and supportive services to families adopting court dependent children who are HIV positive. Welf. & Inst. Code § 16135.10. The training curriculum shall include but not be limited to: orientation; effect of alcohol and controlled substances on fetuses; normal and abnormal early childhood development; special medical needs and disabilities; recovery from addiction to alcohol and controlled substances; self-care for the caregiver; issues in parenting children with prenatal alcohol and controlled substance exposure; issues specific to caring for an HIV-positive child; and HIV or AIDS in children. Welf. & Inst. Code § 16135.13. The county shall determine whether the child is eligible for services and select a specialized prospective adoptive home for the child. Welf. & Inst. Code § 16135.14. The Department shall develop necessary procedures and standardized programs for a specialized adoptive home training project, assist counties in coordinating sources of funding and services available to eligible children, require that participating counties coordinate available services for this population and their adoptive families, and provide to requesting counties information necessary to establish a program. Welf. &

Inst. Code § 16135.25. A county may place children who are HIV positive in prospective homes. If a county makes a placement, a preadoptive parent trained by health care professionals may provide specialized in-home health care to that child who was placed in their home for the purpose of adoption. Welf. & Inst. Code § 16135.30.

(26) The Office of Health shall serve as a resource for ensuring that programs keep data and information regarding ethnic and racial health statistics, strategies and programs that address multicultural health issues, including HIV and AIDS. Health & Safety Code § 152.

(27) The Alcohol Detoxification and IV Drug User AIDS Education Pilot Project, administered by the alcohol and drug program department of the county, shall treat drug and alcohol abusers through a county-administered in-home detoxification and AIDS education program. Health & Safety Code §§ 11758.51 to 52. The client contact shall be through a public health nurse who shall provide all the following: information and monitoring throughout the detoxification period; information and educational materials on drug and alcohol abuse; information on the contracting and transmission of AIDS via intravenous drug use; and information and contacts with drug and alcohol, and AIDS support groups. Health & Safety Code § 11758.52. The Department shall evaluate the pilot project and evaluate numbers of IV drug users in target counties, status of HIV results among alcoholics and IV drug users not in recovery, drug and alcohol-related jail intakes, and repeat offenses. Health & Safety Code § 11758.54.

(28) Each designated local board shall submit to the Department for approval, a local emergency shelter strategy for its region. A statement of how grant recipients shall be encouraged to develop year-round emergency shelters and transitional housing to meet the diverse needs of the homeless population that includes people living with HIV and AIDS. Health & Safety Code § 50804.

(29) The Department of Mental Health shall authorize the establishment of training programs throughout the state for counselors for publicly-funded, community-based, nonprofit organizations with demonstrated expertise in providing free, anonymous or confidential HIV testing services. The costs associated with these training programs shall be absorbed by participating community-based organizations. Health & Safety Code § 120871.

(30) The legislature declares it a great benefit to the public health to provide testing for the presence of antibodies of AIDS as a function separate from the donation of blood or blood components. The director shall designate counties that will designate alternative testing sites. Health & Safety Code § 120890.

(31) If an applicant for an early intervention project contract wishes to be considered, he or she shall indicate how he or she intends to coordinate with county health department programs, community-based organizations that provide HIV-related services, and other public and private entities that may provide services to and HIV-infected person. Health & Safety Code § 120905. Data shall be provided to the

department on the following: total number of clients served; the number of clients using each service provided by the project; demographics on clients; source of funding for each type of service provided; medical treatment modalities used; changes in the clinical status of clients; changes in behaviors that present risks of transmitting HIV infection; psychosocial changes of clients; referrals made by the project; and perceived number of unmet needs of the clients served by the project. Health & Safety Code § 120910.

(32) The Department, through its Office of AIDS, may participate in a rapid HIV test research program conducted with the federal CDC, involving innovative HIV testing and counseling programs. Health & Safety Code § 120917.

(33) The legislature intends to require the Department to include early intervention HIV and AIDS education as a component of information and education grants. Health & Safety Code § 120920.

(34) The legislature intends to continue to provide temporary funding to ensure that those whose health depends on obtaining AZT can receive the drug. Health & Safety Code § 120930.

(35) The Director of the Department may administer a program to provide drug treatments to persons infected with HIV. Health & Safety Code § 120955.

(36) Any antiviral drug approved by the FDA for treatment of HIV or AIDS shall be available to any eligible person, under this section. Health & Safety Code § 120966.

(37) Neither department nor any blood bank or plasma center (see Definitions (5)) shall be held liable for any damages resulting from the notification of results. Health & Safety Code § 121005.

(38) A prenatal health care provider primarily responsible for providing prenatal care to a pregnant patient shall offer HIV information and counseling to every patient that includes: a description of the modes of HIV transmission; methods to reduce the risk of prenatal transmission; and referral information to other HIV prevention and psychosocial services, including anonymous and confidential test site. The prenatal care provider should also offer an HIV test to every pregnant patient. Health & Safety Code § 125107.

(39) The Department may enter into primary care case management contracts that serve persons infected with HIV. Welf. & Inst. Code § 14088.85.

(40) A participating county shall provide special training to recruited adoptive parents to care for eligible children, and the training shall include HIV or AIDS in children. Welf. & Inst. Code § 16125.13.

(41) The legislature encourages participating counties to design and implement a range of options for specially-trained foster parents and to provide specialized in-home health care to a child who is HIV positive. Welf. & Inst. Code § 16525.20.

(42) The Director of Corrections may contract with public or private agencies for housing, care, and treatment of inmates with AIDS or an AIDS-related complex. Penal Code § 2692.

(43) The Director of the Department shall ensure that administrators of group home facilities have appropriate training to provide the care and services for which a license or certificate is issued. Health & Safety Code § 1522.41. In addition, the administrator certification requires a minimum of forty hours classroom instruction that provides training of resident admission, retention and assessment procedures, including the rights of a foster child to have fair and equal access to all available services without discrimination or harassment on the basis of HIV status. The same standard holds for the training and licensing of any personnel at the department and also for supplemental foster parent training. Health & Safety Code §§ 1563, 1529.2.

(44) The Urban Community Health Institute has the following duties: to gather local and regional surveillance data to assess the extent, severity, causes and solutions to HIV and AIDS; to implement community-focused interventions and demonstration projects to eliminate HIV and AIDS; to apply population-based sciences to projects that assess the risk factors of HIV and AIDS; to serve as a community resource for technical assistance and training in the communication and dissemination of information; and to facilitate the development of lasting community partnerships to promote health lifestyles that prevent disease and reduce risk factors for HIV and AIDS. Health & Safety Code § 106005.

(45) The HIV/AIDS Center shall conduct prevention, education, and counseling programs in high-risk populations identified through partnerships, between the center and community-sponsored outreach programs in local neighborhoods and in local social gathering places of individuals with a high risk for HIV infections. Health & Safety Code § 106025.

(46) The Department, through its Office of AIDS, shall appoint and convene a task force to develop recommendations for the use of post-exposure prophylaxis (PEP) in the general population, for the prevention of HIV infection. Health & Safety Code § 121348. The task force shall consist of no more than ten members and should include HIV physicians or clinicians, HIV prevention, education, or mental health providers, and representatives of the Office of AIDS. The representative of the Office of AIDS shall serve as the chair of the task force and shall coordinate the proceedings and actions of the task force. Health & Safety Code § 121348.2.

(47) The federally qualified health center services and rural health clinic services are covered benefits and shall be reimbursed on a per-visit basis. The per-visit rate may be adjusted based on a change in the scope of services provided. A change in scope includes an increase in service intensity attributable to changes in the types of patients served, but not limited to, populations with HIV or AIDS, or other chronic disease, or homeless, elderly, migrant, or other special populations. Welf. & Inst. Code § 14132.100.

(48) The intent of the legislature is to expand eligibility of Medi-Cal benefits, with the exception of prescription drug benefits provided by the AIDS Drug Assistance

Program (ADAP), to persons with HIV who are enrolled in ADAP and who are not disabled, but who, if disabled, would qualify for Medi-Cal benefits. Welf. & Inst. Code § 14149.

(49) To qualify for ADAP, the person must enroll in the ADAP program and maintain enrollment. The Department shall encourage the voluntary enrollment into Medi-Cal managed care of persons who are disabled as a result of AIDS. Welf. & Inst. Code § 14149.3.

Criminal Law (2)

Education (1), (2), (3), (8), (10), (11)

Employment (1)

Housing (2), (3), (4)

Insurance (1), (2), (3), (4), (10), (11), (12)

Research (2), (8)

Testing & Reporting (1), (2), (4), (5), (6), (7), (8), (9), (11), (12), (13), (14), (15), (16), (17), (18), (20), (21), (23), (24), (25), (28), (29)

Miscellaneous (3), (4), (5), (6), (7), (8), (9), (11)

TESTING & REPORTING

(1) The legislature intends to implement recommendations pertaining to infectious disease screening of blood and other body parts and fluids and notifying donors of the results of those screening tests. Health & Safety Code § 121150.

(2) A minor who is twelve years of age or older and who may have come in contact with an infectious, contagious, or communicable disease may consent to medical care related to the diagnosis or treatment of the disease, if the disease or condition is one that is required by law or regulation to be reported to the local health officer or is a STD related to a reportable disease or condition. The minor's parent or guardian is not liable for payment for medical care provided to a minor under such conditions. Family Code § 6926.

(3) No person shall be compelled in any state, county, city, or other local, civil, criminal, administrative, legislative, or other proceedings to identify or to provide characteristics which would identify an individual who is the subject of an HIV blood

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test (see Definitions (16)). Health & Safety Code § 120975.

(4) For purposes of diagnosis, care, or treatment of a patient, the results of an HIV test which identifies the test subject may be recorded by the physician who ordered the test in the test subject's medical record or otherwise disclosed (see Definitions (12)) to the test subject's health care providers (see Definitions (3)) without written authorization from the test subject. "Health care provider" does not include a health care service plan. No further disclosure shall be made unless otherwise permitted by law. Health & Safety

Code § 120985.

(5) Except in the case of a person treating a patient, no person shall perform an HIV blood test without the written consent of the test subject or conservator (see Testing & Reporting (6)). The person administering the test shall obtain a written statement confirming that consent from the test subject was given. In the case of a physician or surgeon, the consent required shall be informed consent. The consent requirement does not apply in the following situations: to a test performed at an alternative site; to certain blood or blood products (see Testing & Reporting (16)); to testing by a medical examiner or other physician on blood from a cadaver when an autopsy is performed or body parts are donated pursuant to the Uniform Anatomical Gift Act; or to testing performed as part of medical research conducted with institutional review board approval or by the Department of Health Services in accordance with protocol for unlinked testing (see Definitions (29)). Health & Safety Code § 120990.

(6) When an HIV test subject is not competent to give consent for a blood test, written consent may be obtained from the subject's parent, guardian, conservator, or other person lawfully authorized to make health care decisions for the test subject. A minor under twelve years of age shall be deemed not competent to give consent. Health & Safety Code § 121020.

(7) The results of an HIV blood test may be disclosed to any of the following persons without written authorization: to the subject of the test or the subject's legal representative or conservator; to a test subject's health care provider, not including a health care services plan; to an agent or employee of the test subject's health care provider who provides direct patient treatment; or to a health care provider who procures, processes, distributes, or uses a human body part pursuant to the Uniform Anatomical Gift Act; to a designated officer of an emergency response employee, who is subject to confidentiality requirements. Health & Safety Code § 121010.

(8) No physician or surgeon who has the confirmed positive HIV test results of a patient shall be held criminally or civilly liable for disclosing to a person reasonably believed to be a spouse, sexual partner, or person with whom the patient has shared a hypodermic needle, or to the county health officer, that the patient has tested positive for HIV, except that no physician or surgeon shall disclose any identifying information about the individual believed to be infected. No physician shall disclose a positive HIV test result to a third party unless the physician has first discussed the test result with the patient and has offered the patient appropriate educational and psychological counseling, including information on the risks of transmitting HIV to others and methods of avoiding those risks, and has attempted to obtain the patient's voluntary consent for notification of contacts. The physician shall notify the patient of the physician's intent to notify the patient's contacts prior to any notification. The physician shall refer the contact for appropriate care, counseling, and follow-up. Disclosure is permissive on the part of the physician. The county health officer may alert any persons reasonably believed to be a

spouse, sexual partner, or needle-sharing partner of an individual who has tested positive for HIV without disclosing the identity of the individual believed to be infected and without disclosing the identity of the physician making the report. The county shall also refer the person contacted for appropriate care and follow-up. Upon completion of the county health officer's effort to contact any person, all records regarding the person contacted shall be expunged by the county health officer. Health & Safety Code § 121015.

(9) The purpose of AIDS public safety and testing provisions is to require that information vital to the health and safety of the public, victims of certain crimes, certain defendants and minors, and custodial personnel, peace officers, firefighters, and emergency medical personnel put at risk in the course of their duties, be obtained and disclosed so that precautions can be taken to preserve their health and so that such persons can be relieved of groundless fear of infection. Health & Safety Code § 121050.

(10) Any defendant charged in any criminal complaint with unlawful sexual intercourse with a minor, spousal rape, compelling an illicit relationship, inducing consent to a sexual act by fraud or fear, sodomy, lewd or lascivious acts involving children, or oral copulation shall be subject to court ordered HIV testing. If an alleged victim listed in the petition or complaint makes a written request for testing, the prosecuting attorney or the alleged victim may petition the court for an order to test the defendant for HIV. The court shall promptly conduct a hearing upon any such petition. If the court finds that probable cause exists to believe that a transfer of blood, saliva, semen, or other body fluid took place between the defendant and the alleged victim the court shall order that the defendant provide two specimens of blood for testing. Copies of the test results shall be sent to the defendant, each requesting victim, and if applicable, to the officer in charge and the chief medical officer of the place in which the defendant

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is incarcerated or detained. Health & Safety Code § 121055.

(11) Any person charged in a criminal complaint filed with a magistrate, court, or juvenile court in which it is alleged that the defendant or minor interfered with the official duties of a peace officer, firefighter, or emergency medical personnel by biting, scratching, spitting, or transferring blood or other bodily fluids on, upon, or through the skin or membranes of such peace officer, firefighter, or emergency medical personnel shall be subject to court ordered HIV testing following the same procedures as those outlined in § 121055 pertaining to court ordered testing of defendants alleged to have

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committed sex crimes. Health & Safety Code § 121060.

(12) Withdrawal of blood for the purposes of AIDS testing shall be performed in a medically approved manner. Only a physician, registered nurse, licensed vocational nurse, licensed medical technician, or licensed phlebotomist may withdraw blood

specimens for the purposes of AIDS testing. The court shall order that the blood specimens be transmitted to a licensed medical laboratory and that tests be conducted for medically accepted indications of exposure to the AIDS virus and AIDS-related conditions. Copies of test results which indicate exposure to or infection by AIDS or AIDS-related conditions shall be transmitted to the State Department of Health Services. The test results shall be sent to designated recipients with a disclaimer that AIDS tests cannot be performed with absolute accuracy and that persons receiving the results should continue to monitor their health and consult a physician. If the test subject is a minor, copies of the test results shall also be sent to the minor's parent or guardian. The court shall order all persons receiving test results to maintain the confidentiality of personal identifying information except for disclosure which may be necessary to obtain medical or psychological care. The specimens and test results shall not be admissible evidence in any criminal or juvenile proceeding. Any person performing testing or transmitting or disclosing information in accordance with the provisions of the testing disclosure act shall be immune from civil liability. Health & Safety Code § 121065.

(13) Any medical personnel employed by or under contract with the state or an agency or political subdivision of the state providing service at any prison, Youth Authority institution, or juvenile detention, medical, or other facility who receives information that an inmate or minor at such facility has been exposed to or infected by the AIDS virus or has an AIDS-related condition shall communicate such information to the officer in charge of the facility. The following information shall be subject to disclosure: laboratory tests which indicate exposure to AIDS; any statement by the inmate that such inmate has AIDS or has been exposed to the AIDS virus; and the results of any medical examination indicating exposure to the AIDS virus, not including information communicated pursuant to a research study in which an express written waiver of disclosure has been obtained. The officer in charge of the facility shall notify all employees, contract personnel, and volunteers who may have direct contact with the inmate or the inmate's bodily fluids of the information pertaining to the inmate so that actions may be taken to provide appropriate care for the inmate and to provide for the safety of such personnel and other inmates. All persons to whom information is disclosed shall maintain the confidentiality of personal identifying data except as authorized by statute or as necessary to obtain medical or psychological care. Health & Safety Code § 121070.

(14) No blood or blood components (see Definitions (5)) shall be used in vivo for humans unless the blood or blood components have tested negative for HIV or the blood or blood components are used for research or vaccination programs pursuant to informed consent. Exceptions to the testing requirement include: frozen red blood cells of a rare type collected prior to the effective date of the testing provision for which no specimen is available; inventories of blood or blood components collected up to sixty days after the effective date of the testing provision; blood or blood products released for transfusion in

emergency circumstances; and blood used for autologous purposes. A physician shall report all transfusion-associated AIDS cases to the county health officer. As soon as is practicable following hospitalization, a hospital shall report the name, date of birth, address, social security number, name of the hospital, and date of hospitalization of an AIDS carrier to the Department of Social Services and the county health officer. The county health officer shall investigate all transfusion-associated AIDS cases and shall, if possible, trace the sources of human whole blood which was transfused. The Department shall compile two times each month a list of carrier donors, possible carrier donors, and persons who test positive for HIV and shall distribute the lists to blood banks and plasma centers. Information reported to a blood bank shall be used solely to determine whether blood previously transfused may have been donated by a person infected with HIV. The blood bank shall not disclose information which would identify a donor and shall destroy information communicated to it immediately after reviewing its records. Health & Safety Code § 1603.1.

(15) Prior to a donation of blood or blood components, each donor shall be notified in writing and shall have signed a written statement confirming the notification of all of the following information: that the blood or blood components shall be tested for HIV; that donors found to have serologic evidence of HIV shall be placed on a confidential statewide Blood Donor Deferral Register without a listing of the reason for being included in the register; that the donor shall be notified of the test results; that the donor blood found to have HIV antibodies shall not be used for transfusion; that blood or blood components shall not be donated for transfusion by persons who have reason to believe that they have been exposed to HIV; and that the donor is required to complete a health screening questionnaire to assist in determining whether the person has been exposed to AIDS. A blood bank or plasma center (see Definitions (5)) shall incorporate voluntary means of self-deferral for donors, including but not limited to a form with check off boxes specifying that the blood donated is for research or test purposes only and a callback telephone system for donors to use in order to inform the blood bank that blood donated should not be used for transfusion. The blood bank shall also inform the donor that it is a felony to donate blood if the donor knows he or she has tested reactive to the etiologic agent of AIDS or to the antibodies to that agent or has a diagnosis of AIDS. Blood or blood products that test positive initially shall be retested. Only if a further test confirms the conclusion of the earlier test shall the donor be notified of the result by the blood bank. Each blood bank or plasma center shall prominently display at each collection site a notice which provides the addresses and phone numbers of sites where antibody testing is available. No civil liability or criminal sanction shall be imposed for disclosure of test results to a public health officer when disclosure is necessary to locate and notify a blood donor of a reactive result if reasonable efforts by the blood bank or plasma center have failed. Once an effort to locate a donor by a public health officer has been completed, the officer shall expunge all records obtained from the

blood bank or plasma center. Health & Safety Code § 1603.3.

(16) No public entity (see Definitions (22)), blood bank, or plasma center shall be liable for an unintentional disclosure of HIV test results or information in the Donor Deferral Register. Health & Safety Code § 1603.4.

(17) Each county designated by the Director of Health Services shall make the HIV antibody test (see Definitions (8)) available without charge and on a confidential basis through the use of a coded system with no linking of individual identity with the test request or results. The county may administer the test either directly or by contract with a physician and surgeon or with any licensed clinic or health facility. Neither the county nor anyone else administering the test shall ask for the name, social security number, or any other information which could identify the test subject. Each test site shall make available confidential information and referral services. The Department of Health Services shall establish a reimbursement process for such information, testing, and referral services. Health & Safety Code § 120895.

(18) No tissue shall be transferred into the body of another person by means of transplantation unless the donor has been screened and found nonreactive for HIV and human T lymphotropic virus-1 (HTLV-1). All donors of sperm shall be screened and found nonreactive for HIV. Transplantation without testing of the donor for HIV may occur if the surgeon or physician performing the transplantation has determined any one or more of the following to be true: the intended recipient will most likely die during the period of time necessary to conduct the tests; the intended recipient is already diagnosed with HIV; or the symptoms from HIV will most likely not appear during the intended recipient's likely lifespan after transplantation. In addition, consent for the use of the non-tested tissue must be obtained if possible, or substitute consent must be obtained from the recipient's family or legal guardian. Human breast milk from donors who test reactive for HTLV-1 or HIV shall not be used for deposit into a milk bank for human ingestion in California. Health & Safety Code § 1644.5.

(19) Nothing in the provisions requiring prompt reporting of cases of active tuberculosis shall authorize the disclosure of HIV test results. Health & Safety Code § 121362.

(20) An anatomical gift authorizes any reasonable examination necessary to assure medical acceptability of the gift. All donors shall be screened for HIV. A person acting in good faith and in accordance with the anatomical gifts provisions shall not be liable in a civil or criminal proceeding for any injury, damages, or costs which may result from making use of the anatomical gift. Health & Safety § 7155.5.

(21) The court shall order every person convicted of a sexual offense (see Definitions (26)) to submit to an HIV test. The offender, the Department of Justice, and the local health officer shall be notified of the test results. The Department of Justice shall provide the test results to the defense and prosecuting attorneys, on request, for the purpose of preparing counts for a subsequent offense or for sentence enhancement (see

Criminal Law (3), (8)). The victim shall be advised of his or her right to receive the test results and shall be referred to counseling to better understand the meaning of the test results. The local health officer shall be responsible for disclosing the test results to the victim and the test subject. Positive test results shall not be communicated to the victim or the offender without offering counseling. The victim may disclose the test results as necessary to protect his or her health or the health and safety of family or a sexual

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partner. Penal Code § 1202.1.

(22) Upon the first conviction of any person for soliciting or engaging in prostitution, the court shall, before sentencing or as a condition of probation, order the defendant to complete instruction in the causes and consequences of AIDS and to submit to AIDS testing. Upon a second or subsequent conviction, the court shall order the defendant to submit to AIDS testing. At the sentencing hearing, the court shall furnish the defendant with a report containing the test results. If the results are positive, the court shall make certain that the defendant understands the nature and meaning of the report and advise the defendant of the penalty for a subsequent violation, if applicable. Written copies of the report shall be furnished to the court and the Department of Health Services. The reports shall be confidential except that the Department shall furnish copies of the report to a district attorney on request. The county health officer of each county shall select an agency that shall provide AIDS prevention education. If no agency is currently providing this information then the agency responsible for substance

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abuse shall develop an AIDS prevention education program. Penal Code § 1202.6.

(23) A court may issue a search warrant, at the request of the victim, for the purpose of testing the accused's blood for HIV when a defendant has been charged with or is alleged to have committed any of the following: assault, rape, unlawful sexual intercourse with a minor, spousal rape, lewd or lascivious acts involving children, sodomy, oral copulation, continuous sexual abuse of a child, or penetration by a foreign object. Attempt to commit a sex offense is also grounds for the court to order a search warrant. The search warrant shall be issued at the request of the victim or alleged victim. A court may issue such search warrant only when there is probable cause to believe the accused committed the offense and that blood, semen, or body fluid has been transferred from the accused to the victim. Prior to the issuance of a search warrant, the court shall conduct a hearing where applicable. In all cases where a person has been charged by complaint, information, or indictment with a crime or is subject to a petition in juvenile court alleging the commission of a crime, the prosecutor shall advise the victim of the right to request a probable cause hearing. To assist the victim in deciding whether to make the request, the prosecutor shall refer the victim to the local health officer for pre-request counseling on the risk of HIV transmission and the benefits and

limitations of current HIV tests. Neither the failure of a prosecutor to refer or advise the victim nor the failure or refusal of the victim to seek or obtain counseling shall be considered by the court in ruling on the victim's request. The local health officer shall make provisions for all tests ordered by a court and shall have responsibility for communicating test results to the victim. Only negative or confirmed positive test results shall be communicated to the victim. Counseling shall be provided when a confirmed positive test result is disclosed to the victim. The local health officer and victim shall comply with all laws relating to confidentiality. A victim may disclose test results as necessary to protect the victim's health or the health of the victim's family or sexual partner. The blood test results shall not be used in any criminal proceeding as evidence of either guilt or innocence. Penal Code § 1524.1.

(24) The legislature finds that HIV testing of individuals housed within state and local correctional institutions (see Definitions (11)) would help to provide information necessary for effective disease control and would help preserve the health of public employees, inmates, and persons in custody, as well as the public at large. Penal Code § 7500. There is established a procedure for requesting and granting of confidential HIV tests of inmates if a custodial or law enforcement employee (see Definitions (11)) or another inmate has reason to believe such employee or inmate has come into contact with the blood, bodily fluids, or semen of an inmate or has come in contact with an inmate in a manner which could result in HIV infection and if medical authorities believe there is good medical reason for the test. Counseling shall be provided to an employee or inmate who requests such testing. A decision by a chief medical officer to test for HIV may be appealed within three calendar days of the decision. Probation and parole officers must be notified if an inmate who will be released from incarceration is infected with AIDS. Such officers are permitted to notify others, such as the inmate's spouse, who may come in contact with the parolee or probationer. Prison medical staff are authorized to report and require tests of an inmate if the staff reasonably believes that the inmate may be suffering from AIDS and is a danger to other inmates or staff. Such decision to test may be appealed. In addition, supervisory personnel are required to notify staff who come into close or direct contact with persons in custody who are HIV positive and are required to provide appropriate counseling and safety equipment. Any records pertaining to the testing of inmates shall be confidential. Penal Code §§ 7501, 7510 to 12, 7512.5, 7513 to 16, 7516.5, 7516.8, 7517 to 18, 7520, 7521 to 22, 7555. Failure to submit to required initial or follow up testing by an individual charged with a crime but who is either not held in custody or has been released shall constitute grounds for revocation of the individual's release or probation. Penal Code § 7519.

(25) The withdrawal of blood for the HIV testing of prisoners shall be performed in a medically approved manner. Only a physician, registered nurse, licensed vocational nurse, licensed medical technician, or licensed phlebotomist may withdraw blood specimens. The blood specimens shall be transmitted to a licensed medical laboratory

for testing. Copies of the test results shall be sent by the laboratory to the chief medical officer who shall be responsible for protecting the confidentiality of the test results. The chief medical officer shall send the test results to designated recipients with a disclaimer stating that the tests cannot determine exposure to HIV with absolute accuracy. Copies of the test results shall be sent to the parent's of a test subject who is a minor. All persons other than the test subject who receive HIV test results shall maintain the confidentiality of personal identifying data pertaining to the test subject, except as necessary to obtain medical or psychological care or advice. The specimens and test results shall not be admissible as evidence in any criminal or disciplinary proceedings. Penal Code § 7530.

(26) As necessary for HIV detection and prevention, the Department of Health Services with the approval of the county health officer may conduct periodic anonymous unlinked serological surveys of all or portions of the inmate population or persons under custody within a city or county. Penal Code § 7553.

(27) The correctional, custodial, or law enforcement agency in which a reportable incident (see Definitions (23)) of occupational exposure to HIV occurs shall report the following information: the assignment of the law enforcement employee; the type of incident and type of injury sustained; the treatment rendered; citations to any criminal laws allegedly violated; and the identity of the employing agency. The identities of the law enforcement employee and the source person (see Definitions (23)) shall not be disclosed. Penal Code § 7554.

(28) A person under the jurisdiction and control of the Department of Youth Authority must submit to an HIV test upon a determination by the chief medical officer of the facility that clinical symptoms of AIDS or AIDS-related complex are present in the person. In the event that the test subject refuses to submit to the test, the Department may seek a court order to require the person to submit to testing. The chief medical officer shall ensure that the test subject receives pretest and post-test counseling. The chief medical officer shall encourage the test subject to undergo voluntary testing. The withdrawal of blood shall be performed in a medically approved manner and testing shall be performed by a licensed laboratory. The test subject shall be notified face-to-face of the test results. The Department shall provide appropriate medical services for the diagnosis and treatment of those infected with HIV. The Department may operate separate housing facilities for those infected with HIV and who continue to engage in activities which transmit HIV. Such facilities shall be comparable to those of other wards and inmates not infected with HIV with equal access to recreational and educational facilities. The chief medical officer of a facility may disclose test results to the superintendent or administrator of the facility, inform the test subject's known sexual partners or needle contacts of the positive results provided that the test subject's identity is kept confidential, and include the test results in the subject's confidential medical record, which is to be maintained separate from other case files and records. Welf. &

Inst. Code § 1768.9.

(29) The Department of Social Services shall report to the appropriate committees of the legislature and to the governor each year on a statewide and county-by-county basis the most recent data on the number of babies born with HIV infection. Welf. & Inst. Code § 14148.91.

(30) Any person who negligently discloses HIV test results to a third party in a manner which identifies or provides identifying characteristics of the test subject, except pursuant to written authorization or an express provision for exemption, shall be assessed a civil penalty not to exceed \$1,000 plus court costs. Any person who willfully discloses HIV test results to a third party in a manner which identifies or provides identifying characteristics of the test subject, except pursuant to written authorization or an express provision for exemption, shall be assessed a civil penalty in an amount not less than \$1000 and not more than \$5,000 plus court costs. Health & Safety Code § 120980.

(31) The provisions for disclosure of HIV test results under the Health and Safety Code do not apply to disclosure of test results for insurance underwriting purposes. Any person who negligently discloses test results of an HIV antibody test to any third party in a manner which identifies the test subject, except pursuant to a written authorization, shall be assessed a civil penalty not to exceed \$1,000 plus court costs to be paid to the test subject. Any person who willfully discloses results of an HIV antibody test to any third party in a manner which identifies the test subject except pursuant to a written authorization shall be assessed a civil penalty of between \$1,000 and \$5,000 plus court costs payable to the test subject. Any person who violates the testing disclosure provisions in any way may be liable to the test subject for all actual damages for economic, bodily, or psychological harm which is proximately caused by such an act. Each violation is a separate and actionable offense. Ins. Code § 799.10.

(32) Identifying information and other records of the diagnosis, prognosis, testing, or treatment of any person relating to HIV shall be disclosed in a criminal investigation for a violation of engaging in unprotected sexual actions by one who knows they are infected with HIV (see Criminal Law (12)), by an order of the court. Any order of the court shall not be based on the sexual orientation of the defendant and the court shall weigh the public interest and the need for disclosure against any potential harm to the defendant, including but not limited to damage to the physician-patient relationship and to treatment services. The court, upon issuance of the order, shall impose safeguards against unauthorized disclosure. Nothing in this section is to compel the testing to determine the HIV status of the victim. Nothing in this section is intended to restrict or eliminate the anonymous AIDS testing programs. Identifying characteristics of persons who submit to the testing shall not be ordered disclosed pursuant to this section, nor shall an order be issued authorizing the search of the records of a testing program of that nature. Health & Safety Code § 120292.

(33) Any person applying for a license or renewal of a license as a professional boxer

or a professional martial arts fighter shall present documentary evidence satisfactory to the commission that the applicant has been administered an HIV test by a certified laboratory in the United States, within thirty days prior to the date of the application and that the test was negative. Information received under this section and other medical information about the applicant is confidential. If the commission denies, suspends or revokes a license because of a licensee's HIV status, it shall state that the action was taken for medical reasons. An applicant or licensee may appeal the commission's denial, and shall be notified by the commission, in writing, of the right to a closed hearing on that appeal. The request for a hearing must be made within thirty days of receiving notification from the commission of the right to request a hearing. Bus. & Prof. Code § 18712.

(34) Health care service plans can conduct tests for the presence of HIV. Health & Safety Code § 1365.5.

(35) Any forensic scientist who comes into contact with blood or other bodily fluids on, upon, or through the skin or membranes or his or her person while handling or performing testing on forensic evidence, may petition the court to test the blood or bodily fluids. The requesting party shall make a reasonable effort to obtain the consent of the person whose blood or bodily fluids is to be tested. Health & Safety Code § 121056.

(36) The result of an HIV antibody test shall not be conveyed to a patient via Internet posting or electronic means. Health & Safety Code § 123148.

(37) When a custodial officer or staff person of a correctional institution observes or is informed of activity in the institution that is classified as causing, or known to cause the transmission of AIDS, he or she may file a written report with the facility's chief medical officer/county health officer. The medical officer may investigate the report, conduct interviews and determine whether the situation reported caused the probable exchange of body fluids in a manner that could transmit HIV. If the chief medical officer concludes that this may have occurred, he or she shall require HIV testing of any inmate he or she deems necessary pursuant to the investigation. The inmate required to be tested may appeal. Penal Code § 7516.

(38) As early as possible during prenatal care, a blood specimen shall be submitted to a clinical laboratory for a test to determine the presence of HIV. The results shall be reported to the physician or surgeon or other person engaged in the prenatal care of the woman or attending the woman at the time of delivery who ordered the test, and who shall subsequently inform the woman tested. A positive test result shall be reported to the local health officer, with the information required and within the timeframes established. In the event that other tests to determine HIV infection become available, the department may approve additional tests. Health & Safety Code § 125085. A blood specimen does not have to be submitted to a clinical laboratory if the licensed physician has knowledge that the woman has previously been determined to be chronically

infected with HIV and accepts responsibility for the accuracy of the information. Prior to obtaining the blood specimen, the physician shall ensure that the woman is informed of the intent to perform a test for HIV infection, the routine nature of the test, the purpose, risk and benefits of the test, that approved treatments are known to decrease the risk of perinatal transmission of HIV, and that the woman has a right to accept or refuse this testing. The acceptance shall be documented in writing on a form and the form shall be maintained in the medical record. If during the final prenatal care standard medical tests, the medical records do not document a test for HIV, the physician shall obtain a blood specimen for the test, again informing the woman of the risks and asking consent. Health & Safety Code § 125090. The Department shall develop culturally sensitive informational material adequate to fulfill the requirements of the information to be given to the woman listed above in English, Spanish, and other languages used by the Department when providing information to clients under the Medi-Cal program. This material shall also include information on available referral and consultation resources of experts in prenatal HIV treatment. Health & Safety Code § 125092.

(39) No later than March 15 of each year, the Department shall report to the appropriate committees of the legislature and the governor, on a statewide and county-by-county basis the most recent data on the number of babies born with HIV infection. Welf. & Inst. Code § 14148.91.

Criminal Law (1), (2), (4), (5), (6), (8), (9)

Education (8), (10)

Employment (1)

Housing (1)

Insurance (2), (3), (5), (6), (7), (8), (10)

Research (3), (11)

Social & Medical Services (3), (8), (12), (16), (17), (18), (21), (31)

Miscellaneous (1), (3), (9)

MISCELLANEOUS

(1) The Department of Health Services shall prepare and publish a brochure for distribution to marriage license applicants which shall contain information concerning AIDS (see Definitions (1)) and the availability of HIV testing (see Definitions (16)). Family Code § 358.

(2) A city, county, or district attorney pursuant to a local ordinance enacted for the purpose of prosecuting HIV and AIDS discrimination claims, acting on behalf of a person claiming to be aggrieved due to HIV and AIDS discrimination, may bring a civil action against any person, employer, labor organization, or employment agency. Govt. Code § 12965.

(3) Public health records pertaining to AIDS that contain personally identifying

information and that are developed and acquired by state or local public health agencies shall be confidential and shall not be disclosed except as otherwise provided by law or pursuant to a written authorization by the subject of the record or a guardian or conservator. State or local public health agencies may disclose personally identifying information in public health records to other local, state, or federal public health agencies or to corroborating medical researchers (see Definitions (9)) when the confidential information is necessary to carry out an investigation or to control the disease. The disclosure shall only contain the information necessary for the purpose of that disclosure and such information shall not be further disclosed. No confidential health record shall be disclosed, discoverable, or compelled to be produced in any civil, criminal, administrative, or other proceeding. Any person who willfully or maliciously discloses the content of a confidential public health record shall be subject to a civil penalty of \$1,000 to \$5,000 plus court costs, payable to the subject of the record. In the event that a record is disclosed, the information shall not be used to determine employability or insurability of any person. The provisions of Chapters 1.11 and 1.12 pertaining to the disclosure of test results and research records shall supersede those pertaining to health

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records. Health & Safety Code §§ 121025 to 30.

(4) The legislature finds that the best hope of stemming the spread of the AIDS virus among the general population is the development of an AIDS vaccine (see Definitions (2)) and declares that it is in the public interest to provide appropriate incentives toward the timely development and production of an effective and safe AIDS vaccine. The legislature also declares that fair compensation for innocent victims injured by an AIDS vaccine is in the public interest. The AIDS Clinical Trials Testing Fund will be available to not more than three California manufacturers of an AIDS vaccine approved by the FDA or the Department of Health. The AIDS Vaccine Research and Development Advisory Committee (see Definitions (9)) shall review California manufacturers' requests for funds. Manufacturers may apply for such funds while FDA approval is pending. An AIDS Vaccine Research and Development Grant Program should also be established to encourage AIDS vaccine research by the private sector. It is appropriate to mandate that such grants be reimbursed to the state from the sale of such vaccines. Health & Safety Code §§ 121200, 121250, 121260.

(5) Contingent on the availability of monies, the AIDS Vaccine Victims Compensation Fund shall pay damages for personal injuries (see Definitions (6)) caused by an AIDS vaccine sold or delivered in California and administered or dispensed in California to the injured person, except that no payment shall be made for any of the following: damages for personal injuries caused by the vaccine attributable to the comparative negligence of the person making the claim; in any instance where the manufacturer has been found to be liable for the injuries in a court of law; or due to a

vaccine administered during a clinical trial. Health & Safety Code § 121270.

(6) The AIDS Vaccine Injury Compensation Policy Review Task Force shall consist of fourteen members who shall make recommendations pertaining to victims compensation procedures. The AIDS Vaccine Victims Compensation Fund shall be created wholly from a surcharge on the sale of an AIDS vaccine approved by the State Department of Health Services or the FDA. The surcharge shall not exceed \$10 per unit of vaccine. Health & Safety Code § 121270.

(7) The AIDS Vaccine Guaranteed Purchase Fund is established to guarantee the purchase from companies anywhere in the United States of at least 500,000 units of AIDS vaccine at a cost of no more than \$20 per dosage. The vaccines shall be purchased within three years of FDA or Department of Health Services approval. In determining which vaccine shall be purchased, the Department of Health Services shall take into consideration the following criteria: the length of time each AIDS vaccine has been in the marketplace; each vaccine's history of efficacy; each vaccine's history of side effects; and the relative cost of each competing manufacturer's AIDS vaccine. Health & Safety Code § 121275.

(8) The legislature wishes to encourage FDA-approved clinical trials of an AIDS vaccine to protect against HIV transmission from mother to child and that may also provide a therapeutic effect in the HIV-infected mother. Grants shall be made to encourage manufacturers to conduct such trials. Health & Safety Code § 121300. A manufacturer, research institution, or researcher shall, prior to administration of a maternal transmission AIDS vaccine, obtain the woman's informed consent, a copy of which shall be kept in the test subject's medical record. Significant new findings developed during the course of the research which may relate to the subject's willingness to participate shall be provided to the subject. Health & Safety Code § 121310. A manufacturer, research institution, or researcher shall not be strictly liable for personal injury or wrongful death resulting from the administration of any maternal transmission AIDS vaccine to a research subject (see Definitions (9)) participating in clinical trials. Immunity shall not apply to manufacturers who intentionally provided false information to the FDA in connection with an application for clinical trials. Health & Safety Code § 121315. No person shall be denied the opportunity to be a research subject because of an inability to pay for medical treatment. Health & Safety Code § 121320. An AIDS Clinical Trial Grant Award (see Definitions (9)) for the Prevention of Maternal Transmission of HIV Infection shall be established in order to provide grants to no more than three manufacturers of an AIDS vaccine approved for clinical trials by the FDA. The funds are to be used for FDA clinical trials. The Department of Health Services shall issue a request for proposals for research and development projects for a maternal transmission AIDS vaccine. The AIDS Vaccine Research and Development Advisory Committee shall review the proposals based on the following criteria: the potential to develop an AIDS vaccine; the commitment of the grant recipient to provide, either

directly or through health insurance coverage, for any injury caused to the participant by the AIDS vaccine in the clinical trial; and the financial, managerial, and technical commitment of the grant recipient. Health & Safety Code § 121325. If a manufacturer that is awarded a grant sells, delivers, or distributes an FDA-approved AIDS vaccine for use by the general population developed in whole or in part using the grant award, the State of California shall be reimbursed for the grant at the rate of \$1 per dose until the total amount of the grant is repaid. A royalty on the sale of the vaccine shall also be paid to the state. The amount of the royalty shall be negotiated at the time of the grant award. Health & Safety Code §§ 121225, 121330.

(9) Every person who sells alkyl nitrates (poppers) shall post a sign at the point of sale (see Definitions (21)) warning that they may be harmful to the health of the user and that studies suggest that their use is associated with the development of the AIDS condition Kaposi's Sarcoma. Health & Safety Code § 120870.

(10) It is unlawful for any person to advertise any drug or device represented to have any effect on AIDS or AIDS-related complex. Health & Safety Code § 110403.

(11) Every building or place used as a bathhouse which as a primary activity encourages or permits conduct that can transmit AIDS including, but not limited to, anal intercourse, oral copulation, or vaginal intercourse, is a nuisance which shall be enjoined, abated, and prevented, and for which damages may be recovered, whether it is a public or private nuisance. Penal Code § 11225.

(12) The department of motor vehicles, in consultation with the University of California, shall design and make available for issuance special interest license plates depicting a red ribbon that recognizes the impact of AIDS on society, that may be issued in a combination of numbers or letters or both, as requested by the applicant for the plate. All fees collected under this section for the license plate shall be deposited into an AIDS Research Account, and will be used to fund AIDS research grants awarded by the University of California. Vehicle Code § 5071.

(13) In addition to any fine assessed under § 4321, the judge may assess a fine not to exceed \$70 against any person who violates § 4140 or § 4142 with the proceeds of this fine to be used for AIDS education. Bus. & Prof. Code § 4338.

(14) The legislature intends to reduce exposure of health care workers to bloodborne diseases by encouraging the development and use of medical devices designed to assure worker safety, the safety to patients, and the efficacy of the device. Health & Safety Code § 105325.

(15) Foster care programs shall maintain a policy to have fair and equal access to all available services, placement, care, treatment, and benefits without regard for HIV status. Welf. & Inst. Code §§ 16001.9, 16003, 16013.

[1]

. Urbaniak v. Newton, 277 Cal. Rptr. 354 (Ct. App. 1991) (physician did not violate statute by reporting to patient's insurance company that patient was HIV positive as a result of patient's own admission, because statute applies only to disclosure of HIV blood test results).

[2]

. People v. Patillo, 6 Cal. Rptr. 2d 456 (Ct. App. 1992) (it is within court's discretion to condition probation for crime of selling cocaine on participation in AIDS education program as provided in this section); People v. Henson, 282 Cal. Rptr. 222 (Ct. App. 1991) (it is within court's discretion to condition probation for crimes of possession for sale of methamphetamine and possession of marijuana on participation in AIDS education program as provided in this section).

[3]

. Urbaniak v. Newton, 277 Cal. Rptr. 354 (Ct. App. 1991) (alerting health care workers of patient's HIV status was important safety concern as evidenced by this provision).

[4]

. Irwin Mem'l Blood Bank v. Superior Court, 279 Cal. Rptr. 911 (Ct. App. 1991) (deposition order not enforced because it contravened Health & Safety Code § 199.20 (now § 120975) by requiring suspected HIV positive blood donors to come forward and be identified by donor number).

[5]

. People v. Guardado, 47 Cal. Rptr. 2d 81 (Ct. App. 1995) (written request by victim for AIDS testing of defendant is a statutory requirement under this provision even when victim is a minor).

[6]

. Johnetta v. Mun. Court, 267 Cal. Rptr. 666 (Ct. App. 1990) (given medical utility in administering an HIV blood test on petitioner who allegedly bit a peace officer, this provision does not violate Fourth Amendment of U. S. Constitution); Barlow v. Superior Court, 236 Cal. Rptr. 134 (Ct. App. 1987) (Health & Safety Code §§ 199.20-60 (now §§ 120775-121335) prohibited HIV blood testing of petitioner who bit police officers).

[7]

. People v. McVickers, 840 P.2d 955 (Cal. 1992) (neither drawing of blood for the HIV test nor the disclosure of test result to defendant and law enforcement officers constitutes ex post facto punishment on defendant, even though statutory provision was passed after offense); People v. Frausto, 42 Cal. Rptr. 2d 540 (Ct. App. 1995) (conviction for rape while acting in concert can be the basis for an AIDS test pursuant to this section when the defendant has personally participated in the rape); People v. Jillie, 11 Cal. Rptr. 2d 107 (Ct. App. 1992) (this section does not apply to noncompleted offenses of attempted sodomy and attempted forcible oral copulation since they are not listed in statute); People v. Guardado, 47 Cal. Rptr. 2d 81 (Ct. App. 1995) (involuntary AIDS and HIV testing under this section is strictly limited by statute and does not include testing of persons convicted of lewd and lascivious conduct).

[8]

. Love v. Superior Court, 276 Cal. Rptr. 660 (Ct. App. 1990) (HIV testing and education provisions of this section advance a legitimate government interest and do not violate Fourth Amendment or Due Process provisions of U.S. Constitution).

[9]

. Willits v. Superior Court, 24 Cal. Rptr. 2d 348 (Ct. App. 1993) (nurse significantly exposed while treating AIDS patient not entitled to discovery of patient's medical chart under Health & Safety Code § 199 et seq. (now §§ 120775 to 121335)).