

California

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April 8, 2011

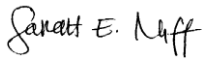
To the Reader:

The *Compendium of State HIV Testing Laws* describes key state HIV testing laws and policies. Each state's HIV testing laws are unique and many have undergone revision or supplementation since the release of the [CDC's 2006 HIV testing recommendations](#). The *Compendium* is designed to help clinicians understand HIV testing laws and to implement sound HIV testing policies. It should not, however, be used as an official legal document.

The NCCC provides clinical consultation for healthcare providers as part of the HRSA [AIDS Education and Training Centers](#) program. Clinicians with questions about HIV testing are encouraged to call the *National HIV Telephone Consultation Service (Warmline)* at (800) 933-3413. The Warmline also provides advice on HIV management, including antiretroviral treatment. Other NCCC consultation services include: the National Clinicians' Post-Exposure Prophylaxis Hotline ([PEPline](#)) at (888) 448-4911 for advice on managing occupational exposures to HIV and hepatitis; and the National Perinatal Consultation and Referral Service ([Perinatal HIV Hotline](#)) at (888) 448-8765 for consultation on preventing mother-to-child transmission of HIV.

We update the *Compendium* periodically, but it is beyond the scope of the project to perform updates and verification concurrent with all changes. We encourage readers to send updates (with citations when possible) and comments to Sarah Neff at neffs@nccc.ucsf.edu.

Thank you,



Sarah E. Neff, MPH
Director of Research and Evaluation

&



Ronald H. Goldschmidt, MD
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The Warmline, PEPline, and Perinatal Hotline are part of the National HIV/AIDS Clinicians' Consultation Center (NCCC) based at San Francisco General Hospital/ UCSF. The NCCC is a component of the **AIDS Education and Training Centers (AETC) Program** funded by the Ryan White CARE Act of the **Health Resources and Services Administration (HRSA)** HIV/AIDS Bureau in partnership with the **Centers for Disease Control and Prevention (CDC)**.

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Definitions and Helpful Resources

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Definitions Commonly Used Nationally

- **Anonymous Testing** – Patient’s name is not recorded with test results.
- **Confidential** – Patient’s name is recorded with test results.
- **HIV Prevention Counseling** – Refers to an interactive process of assessing risk, recognizing specific behaviors that increase the risk for acquiring or transmitting HIV and developing a plan to take specific steps to reduce risks.¹
 - **Pre-test counseling** can include: (1) discussing HIV, risk factors and prevention methods; (2) explaining the meaning of positive and negative test results and their implications; (3) assessing the patient’s personal and social supports; (4) determining the patient’s readiness to cope with test results; (5) discussing disclosure of test results to others; and (6) advising the patient if reporting positive test results to health authorities is required.
 - **Post-test counseling** can include: (1) informing the patient of the results and meaning of the test results; (2) providing education about avoiding risks of sexual and injection drug exposures; and, for patients who test positive, (3) assessing the impact of test results for the patient and family; (3) explaining treatment options; (4) discussing partner counseling and disclosure of test results to others; and (5) initiating a support and treatment plan.
- **General Consent** – Consent for HIV screening is included in the general medical consent.
- **HIV** – Human Immunodeficiency Virus.
- **Informed Consent** – A process of communication between patient and provider through which an informed patient can choose whether to undergo HIV testing or decline to do so. Elements of informed consent typically include providing oral or written information regarding HIV, the risks and benefits of testing, the implications of HIV test results, how test results will be communicated, and the opportunity to ask questions.¹
- **Name-based reporting** – Cases are reported by patient name (required in all states except (HI and VT).
- **Opt-in** – Patients typically are provided pre-HIV test counseling and must consent specifically to an HIV-antibody test, either orally or in writing.²
- **Opt-out** – Performing HIV screening after notifying the patient that: the test will be performed; and the patient may elect to decline or defer testing. Assent is inferred unless the patient declines testing.¹
- **Routine Testing** – HIV screening that is performed routinely during health-care encounters.
- **Rapid Testing** – Testing with any of the six FDA-approved rapid HIV tests that produce results in 30 minutes or less.³
- **Specific Consent** – Consent for the HIV screening is separate from the general medical consent.

Helpful Resources

CDC Recommendations and Guidelines: <http://www.cdc.gov/hiv/topics/testing/guideline.htm>

Emergency Department Implementation Guide: <http://edhivtestguide.org/>

Prenatal HIV Testing Website: <http://www.cdc.gov/hiv/topics/perinatal/1test2lives/>

For questions or comments about the compendium, contact NCCC: neffs@nccc.ucsf.edu

Clinicians with questions about HIV testing can call the Warmline at 800-933-3413.

¹ Revised Recommendations for HIV Testing of Adults, Adolescents, and Pregnant Women in Health-Care Settings. MMWR Recomm Rep. 2006 Sep 22;55(RR-14):1-17; quiz CE1-4. <http://www.cdc.gov/mmwr/preview/mmwrhtml/rr5514a1.htm>

² <http://www.cdc.gov/mmwr/PDF/wk/mm5145.pdf>

³ <http://www.cdc.gov/hiv/topics/testing/resources/factsheets/rt-lab.htm>

California

A Quick Reference Guide for Clinicians to California HIV Testing Laws

April 8, 2011

This Quick Reference Guide for clinicians is a summary of relevant California state HIV testing laws. Note that if a section in this Quick Reference Guide reads “no specific provisions were found,” provisions actually might exist for this topic within the state’s statutes, codes, or rules and regulations, but probably are not essential to clinicians.

For a more complete synopsis of California HIV testing laws, please refer to the section of the Compendium that follows this Quick Reference Guide.

Informed Consent

- Specific simple consent through the opt-out process required (see *State Policies Relating to HIV Testing, 2011*, below, for exceptions); written not required. Consistent with CDC Recommendations and Guidelines

Counseling

- Counseling must be offered to a patient with a confirmed HIV positive test.
- Counseling must be offered to notified partners and contacts.

Provisos of Testing

- **Anonymous**
 - Testing must be made available anonymously.
 - Free anonymous testing is available at designated anonymous testing sites.
 - Individuals testing at an ATS must be informed about the validity and accuracy of the HIV antibody test before it is performed and given their results in person.
- **Rapid**
 - HIV counselors may perform an HIV test if authorized under a physician/surgeon, trained, and meet other requirements (see *State Policies Relating to HIV Testing, 2011*, below).
 - Patients must be informed that the preliminary result of the test is indicative of the likelihood of HIV infection and that the result must be confirmed by an additional more specific test, or, if approved by the CDC, a second different rapid HIV test
- **Routine**
 - As part of consent, a medical provider must inform the patient that in cases of negative results, routine testing is advised.

Disclosure

- Notification to sexual and needle-sharing partners of possible exposure to HIV is required.

Minor/Adolescent Testing

- Persons 12 years of age or older may consent to HIV testing and treatment.

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Perinatal Quick Reference Guide:

A Guide to California Perinatal HIV Testing Laws for Clinicians

April 8, 2011

This Perinatal Quick Reference Guide for clinicians is a summary of relevant California perinatal state HIV testing laws. Note that if a section in this Quick Reference Guide reads “no specific provisions were found,” provisions actually might exist for this topic within the state’s statutes, codes, or rules and regulations, but probably are not essential to clinicians.

For a more complete synopsis of California HIV testing laws, please refer to the corresponding section of the *State HIV Testing Laws Compendium* (www.nccc.ucsf.edu), “Testing of pregnant women and/or newborns.”

Prenatal

- Testing of pregnant women in prenatal care must be informed and is through the opt-out process.
- Counseling and information must be offered to pregnant women by prenatal care providers. This information and counseling shall include, but shall not be limited to, all of the following:
 - (A) A description of the modes of HIV transmission.
 - (B) A discussion of risk reduction behavior modifications including methods to reduce the risk of perinatal transmission.
 - (C) If appropriate, referral information to other HIV prevention and psychosocial services including anonymous and confidential test sites approved by the Office of AIDS.

Labor & Delivery

- Testing of pregnant women presenting to labor or delivery with undocumented HIV status must be informed and is through the opt-out process.

Neonatal

- No specific provisions regarding neonatal testing were found.

Other

- **Linkage to care**
 - Women who test positive for HIV shall also receive, whenever possible, a referral to a provider/ institution specializing in prenatal and post partum care for HIV-positive women and their infants.

California State Policies Relating to HIV Testing, 2011

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California Statutes

Insurance Code..... Pages 9-12
Penal Code Pages 13-33
Health & Safety Code..... Pages 34-78
Welfare & Institution Code..... Pages 79-890
Business & Profession Code..... Page 91
Education Code..... Pages 92-93
Family Code..... Page 94

California Code of Regulations

Title 8: Industrial Relations..... Page 95
Title 9: Rehabilitative and Developmental Services..... Pages 96-98
Title 17: Public Health..... Pages 99-102
Title 22: Social Security..... Pages 103-105

	Policy Category	Type	Section Code(s)
RESTRICTIONS/MANDATES	Restrictions on use of HIV test	Testing prohibited for employment/hiring purposes	Health §120980
		Testing prohibited for determining health insurance eligibility	Ins §10291.5 Health §120980 Health §1389.1
	Mandatory testing within the criminal justice system	Convicted sex offenders	Penal §647f Penal §1202.1 Health §121065
		Persons convicted of prostitution charges	Penal §1202.6
		Juveniles convicted of a sex offense	Penal §1202.1 Health §121055 Health §121065
		Juveniles under authority of DYA	Health §1250.4 Welfare §1768.9
		Persons charged with crime with potential transmission to victims, with written request from victim	Health §121055 Penal §1524.1
		"Law enforcement employee" may request testing	Penal §7502(c) Penal §7501(a)
		Inmate request for test of other inmate, including juvenile delinquents over age 15	Penal §7512
		Any prisoners who present a possible risk	Penal §7512.5
Any prisoners whom law official	Penal §7501		

PRE-TESTING		suspect of being infected	
		Occupational exposure – peace officers, firefighters, custodial officers and assistants, and nonsworn uniformed employees whose job entails the care or control of inmates in a detention facility or the collection of fingerprints, or emergency medical personnel may petition court if written, voluntary informed consent cannot be obtained	Penal §121060 Health §121065
		Periodic anonymous serologic HIV surveys of inmates authorized	Penal §7553
	Mandatory testing outside of the criminal justice system	Boxers/martial arts fighters	Bus & Prof §18712
		Blood/organ/anatomical donations	Health §1603.1 Health §1644.5 Health §7155.5
		Occupational exposure – emergency medical services	Health §1797.188
		Occupational exposure – examiner-coroners	Health §1797.189
		Occupational exposure – forensic scientists may petition court	Health §121056
		Occupational exposure – law enforcement officers	Health §121060
		Occupational exposure – health care workers	Health §120262
	Mandatory offering of HIV/AIDS information and/or testing	Pregnant women in prenatal care – information must be provided prior to testing	Health §125085 Health §125090 Health §125107
		Publicly funded HIV test sites may provide prevention education through video, small group, individual interaction, or other methods and in small groups or couples	Health § 120846
		Persons seeking marriage licenses must receive HIV information	Family §358
		HIV/AIDS information must be provided to recipients of family planning services	Welfare §14503.5
		Department of Social Services must provide AIDS information to foster parents	Welfare §903.8

	Insurance companies must provide printed materials before testing and offer coverage of HIV testing (as of January 1, 2009)	Ins §799.03 Ins §10123.91 Health §1367.46
	Department of Health must include HIV information in hepatitis C programs	Health §122420
	Department of Health must provide culturally sensitive materials	Health §125092
	Department of Education must provide AIDS information to school districts	Health §120875
	Department of Education must provide AIDS information to employees of school districts	Health §120880
	All students in grades 7-12 must receive HIV/AIDS prevention education from trained instructors	Edu §51934
	Education program must be provided to correctional, custodial, and law enforcement agencies	Penal §7552
	Director of CA Youth Services must provide HIV/AIDS information to wards	Welfare §1123
	HIV testing must be offered to selected persons on probation	Penal §1001.10 Penal §1001.11
	HIV information must be offered to parolees and probationers	Penal §7520
	HIV information must be offered to county jail inmates sentenced for drug-related offenses	Penal §4018.1
	HIV information must be offered to inmates of state correctional facilities	Penal §5008.1
Informed consent	Specific simple consent required	Health §120990
	Specific written consent not required if patient independently requests test	Health §120990
	Specific written consent not required at alternative testing sites	Health §120990 Health §120895
	Specific written consent not required for anatomical donations	Health §120990 Health §7152.5
	Specific written consent not required for testing prisoners	Health §121000

	As a part of consent, provider must inform the patient that the test is planned, provide information about the test, inform the patient that there are numerous treatment options available for a patient who tests positive for HIV and that a person who tests negative for HIV should continue to be routinely tested, and advise the patient that he or she has the right to decline the test	Health §120990
Counseling requirements	Publicly funded HIV test sites may advise person tested that no further HIV education is required if person tested before and not high risk	Health § 120846
	Pre and post-test counseling requirements for inmates	22 CCR s41148 22 CCR s41149 22 CCR s41150
	AIDS counseling and testing available for alcohol and drug abusing pregnant and parenting women	Health §11757.59
	Prevention, education, testing, and counseling programs for women and children	Health §120860
	Post-test counseling offered to patient with confirmed HIV positive test and their notified contacts	Health §121015
	Pharmacies selling needles or syringes must counsel consumer regarding testing and treatment	Health §121285
	Provider must offer counseling to every pregnant patient	Health §125107
	HIV counseling must be offered to victims of sex offenses	Penal §1202.1
	HIV counseling must be offered to victims and the accused of other crimes	Penal §1524.1
	Counseling must be offered to parolees and probationers	Penal §7520
	Mandated pre and post-test counseling for wards of CA Youth Authority	Welfare §1768.9

POST-TESTING		Insurers that require an HIV test for life or disability insurance must provide counseling resources	Ins §799.03
	Anonymous testing	County departments of health must sponsor anonymous testing sites with free testing	Health §120890 Health §120895
		Individuals testing at an ATS must be informed about the validity and accuracy of the HIV antibody test before it is performed	Health §120895
		Results of test must be given in-person	Health §120895
	Disclosure/confidentiality	HIV test results as confidential	Health §120820 Health §120975 Health §121025
		Exceptions to confidentiality	Health §120985 Health §121010
		Penalties for unauthorized disclosure of HIV results	Ins §799.10 Penal §7521 Health §120980
		HIV antibody test results shall not be conveyed to a patient by Internet posting or other electronic means	Health §123148
		Court orders may allow access to confidential test results in a criminal investigation for knowingly transmitting HIV	Health §120292
		Notification to partner(s), needle sharers, local health officer	Penal §7521 Health §121015
		Disclosure of HIV status of sex offender to victim	Health §121055
		Disclosure to forensic scientists	Health §121056
		Disclosure to law enforcement officers in cases of assault	Health §121060
		Supervisory and medical personnel to notify and inform	Penal §7522
Pre-hospital emergency personnel notified of exposure		Health §1797.188 Health §1797.189	
Disclosure in cases of testing wards of CA Youth Authority	Health §120995 Welfare §1768.9		
Disclosure in cases of testing prisoners	Health §121000		
Employees must notify officer in charge of suspected infected persons in custodial facilities	Health §121070		

		Disclosure to emergency medical services in cases of exposure from mental health services patients	Welfare §5328	
		Disclosure to funeral directors	Health §1797.188 Health §1797.189	
	Reporting	Name-based reporting of HIV and AIDS	Health §120130 Health §121022 Health §121023 17 CCR s2500 17 CCR s2643.5 17 CCR s2643.10 17 CCR s2643.15	
			All CD4+ T-cell test results related to diagnosed cases of HIV infection by each clinical lab to the local health officer within 7 days of test	Health §121023
			Peace officers must report cases of occupational exposure	Penal §7554
			Health Department must report number of HIV-infected infants born in high-risk populations	Welfare §14148.91
	OTHER	Testing of pregnant women and/or newborns	Pregnant women in prenatal care – opt-out testing	Health §125085 Health §125090 Health §125107
			Pregnant women in prenatal care or women presenting to labor must be provided with testing information prior to testing	Health §125085 Health §125090 Health §125107
			Women presenting to labor and delivery with undocumented HIV status – opt-out testing	Health §125090
Woman who test positive for HIV shall also receive, whenever possible, a referral to a provider/institution specializing in prenatal and post partum care for HIV-positive women and their infants			Health §125090	
Testing of minors/adolescents		Minors 12 years and older may consent to HIV testing.	Health §121020	
		Minors under the age of 12 are considered incompetent to give consent, and a parent, guardian, conservator, or other person legally authorized to make health care decisions must give written consent.	Health §121020	

	Minors who are wards of the court may receive written consent from the court.	Health §121020
Rapid HIV testing laws	HIV counselors may perform any (CLIA classified) HIV test if authorized under a physician/surgeon, trained, and meet other requirements (see specific law below)	Health §120917
	Patients must be informed that the preliminary result of the test is indicative of the likelihood of HIV infection and that the result must be confirmed by an additional more specific test, or, if approved by the CDC, a second different rapid HIV test.	Health §120917
	Patients with an indeterminate or positive test result must be referred to a licensed health care provider whose scope of practice includes authority to refer patients for laboratory testing for further evaluation.	Health §120917
Training and education of health care providers	DPH authorizes HIV counselor training programs run by community-based organizations	Health §120871
	Directors of adult residential and social rehabilitation centers must complete HIV/AIDS education course	Health §1562.5
Providing additional information	DPH must prepare and publish informational brochures	Family §358
	DPH shall develop an HIV education program targeted at women and children	Health §120860

Recommended Resources

A Brief Guide to California's HIV/AIDS Laws (updated May 2007)

<http://www.dhs.ca.gov/aids/Reports/aidslaws/pdf/28492006AIDSLAWS061407.pdf>

California Code of Regulations

<http://www.calregs.com/linkedslice/default.asp?SP=CCR-1000&Action=Welcome>

California Legislative Information

<http://www.leginfo.ca.gov>

San Francisco AIDS Foundation – Policy Watch

<http://www.sfaf.org/policy/pw/>

Glossary of Terms and Abbreviations

DPH: California Department of Health and Human Services

DYA: California Department of the Youth Authority

Insurance Code	
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CA Insurance Code §	Code Section Language
§799	<p>Purposes of article</p> <p>The purposes of this article are to establish standards for the performance by life and disability income insurers of their duty to avoid making or permitting unfair distinctions between individuals of the same class in the underwriting of life or disability income insurance for the risks of acquired immune deficiency syndrome (AIDS) and AIDS-related conditions (ARC); to establish mandatory and uniform minimum standards for assessing AIDS and ARC risks for determining insurability which are deemed to be sufficiently reliable to be used for life and disability income insurance risk classification and underwriting purposes; to require the maintenance of strict confidentiality of personal information obtained through testing; and to require informed consent before any insurer tests for HIV.</p>
§799.02	<p>Declining application or enrollment request on basis of positive ELISA test followed by positive Western Blot Assay</p> <p>Notwithstanding subdivision (f) of Section 120980 of the Health and Safety Code or any other provisions of law, a life or disability income insurer may decline a life or disability income insurance application or enrollment request on the basis of a positive ELISA test followed by a positive Western Blot Assay performed by or at the direction of the insurer on the same specimen of the applicant.</p> <p>This article shall not be construed to prohibit an insurer from declining an application or enrollment request for insurance because the applicant has been diagnosed as having AIDS or ARC by a medical professional.</p>
§799.03	<p>Testing for HIV or antibodies; Requirements for counseling, informed consent, and privacy protection; Written informed consent; Notification of result</p> <p>No insurer shall test for HIV or for the presence of antibodies to HIV for the purpose of determining insurability other than in accordance with the informed consent, counseling, and privacy protection provisions of this article and Article 6.6 (commencing with Section 791). Notwithstanding any other provision of law, this constitutes the exclusive requirements for counseling, informed consent, and privacy protection for that testing.</p> <p>a) An insurer that requests an applicant to take an HIV-related test shall obtain the applicant's written informed consent for the test. Written informed consent shall include a description of the test to be performed, including its purpose, potential uses, and limitations, the meaning of its results, procedures for notifying the applicant of the results, and the right to confidential treatment of the results. Prior to the applicant's execution of the consent, the insurer shall:</p> <p>(1) Provide the applicant printed material describing HIV, its causes and symptoms, the manner in which it is spread, the test or tests used to detect HIV or the HIV antibody, and what a person can do whose test</p>

CA Insurance Code §	Code Section Language
	<p>results are positive or negative.</p> <p>(2) Provide the applicant a list of counseling resources available, where the applicant can obtain assistance in understanding the meaning of the test and its results. The list may be provided from publicly available information.</p> <p>b) The insurer shall notify an applicant of a positive test result by notifying the applicant's designated physician. If the applicant tested has not given written consent authorizing a physician to receive the test results, the applicant shall be urged, at the time the applicant is informed of the positive test results, to contact a private physician, the county department of health, the State Department of Health Services, local medical societies, or alternative test sites for appropriate counseling.</p> <p>c) The commissioner shall develop and adopt standardized language for the informed consent disclosure form required by this section to be given to any applicant for life or disability income insurance who takes an HIV-related test.</p>
§799.04	<p>Cost of testing</p> <p>A life or disability income insurer may not require an applicant to undergo an HIV antibody test unless the cost of the test is borne by the insurer.</p>
§799.05	<p>Prohibited considerations</p> <p>No life or disability income insurer shall consider the marital status or known or suspected homosexuality or bisexuality of an applicant for life insurance or disability income insurance in determining whether to require an HIV antibody test of that applicant.</p>
§799.06	<p>Applicability of other provisions</p> <p>No application or enrollment request 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.</p>
§799.10	<p>Disclosure of results of tests requested by insurer</p> <p>a) This section shall apply to the disclosure of the results of HIV antibody tests requested by an insurer pursuant to this article and, notwithstanding the provisions of Section 120980 of the Health and Safety Code, Section 120980 of the Health and Safety Code does not apply to the disclosure of the results of HIV antibody tests conducted pursuant to this article.</p> <p>b) Any person who negligently discloses results of an HIV antibody test to any third party, in a manner that identifies or provides identifying characteristics of the person to whom the test results apply, except pursuant to a written authorization, as described in subdivision (g), or except as provided in this article or in Section 1603.1 or 1603.3 of the</p>

CA Insurance Code §	Code Section Language
	<p>Health and Safety Code, shall be assessed a civil penalty in an amount not to exceed one thousand dollars (\$ 1,000) plus court costs, as determined by the court, which penalty and costs shall be paid to the subject of the test.</p> <p>c) Any person who willfully discloses the results of an HIV antibody test to any third party, in a manner that identifies or provides identifying characteristics of the person to whom the test results apply, except pursuant to a written authorization, as described in subdivision (g), or except as provided in this article or in Section 1603.1 or 1603.3 of the Health and Safety Code, shall be assessed a civil penalty in an amount not less than one thousand dollars (\$ 1,000) and not more than five thousand dollars (\$ 5,000) plus court costs, as determined by the court, which penalty and costs shall be paid to the subject of the test.</p> <p>d) Any person who willfully or negligently discloses the results of an HIV antibody test to a third party, in a manner that identifies or provides identifying characteristics of the person to whom the test results apply, except pursuant to a written authorization, as described in subdivision (g), or except as provided in this article or in Section 1603.1 or 1603.3 of the Health and Safety Code, that results in economic, bodily, or psychological harm to the subject of the test, is guilty of a misdemeanor punishable by imprisonment in the county jail for a period not to exceed one year, by a fine of not to exceed ten thousand dollars (\$ 10,000), or by both that fine and imprisonment.</p> <p>e) Any person who commits any act described in subdivision (b) or (c) shall be liable to the subject for all actual damages, including damages for economic, bodily, or psychological harm that is a proximate cause of the act.</p> <p>f) Each disclosure made in violation of this section is a separate and actionable offense.</p> <p>g) "Written authorization," as used in this section, applies only to the disclosure of test results by a person responsible for the care and treatment of the person subject to the test. Written authorization is required for each separate disclosure of the test results, and shall include to whom the disclosure would be made.</p>
§ 10123.91	<p>Health care coverage: HIV testing.</p> <p>(a) On or after January 1, 2009, every insurer that issues, amends, or renews an individual or group policy of health insurance that covers hospital, medical, or surgical expenses shall provide coverage for human immunodeficiency virus (HIV) testing, regardless of whether the testing is related to a primary diagnosis.</p> <p>(b) It shall remain within the sole discretion of the health insurer as to the provider of the testing with which it chooses to contract. Reimbursement shall be provided according to the respective principles and policies of the health insurer.</p>
§10291.5	Standards for approval

CA Insurance Code §	Code Section Language
	<p>(2) The application questions designed to ascertain the health condition or history of the applicant shall be based on medical information that is reasonable and necessary for medical underwriting purposes. The application shall include a prominently displayed notice that states:</p> <p>"California law prohibits an HIV test from being required or used by health insurance companies as a condition of obtaining health insurance coverage."</p>

Penal Code	
CA Penal Code §	Code Language
§666.7	<p>List of current sentence enhancement provisions; Provisions classified as Schedules A to U based on length of enhancement</p> <p>It is the intent of the Legislature that this section serve merely as a nonsubstantive comparative reference of current sentence enhancement provisions. Nothing in this section shall have any substantive effect on the application of any sentence enhancement contained in any provision of law, including, but not limited to, all of the following: omission of any sentence enhancement provision, inclusion of any obsolete sentence enhancement provision, or inaccurate reference or summary of a sentence enhancement provision.</p> <p>It is the intent of the Legislature to amend this section as necessary to accurately reflect current sentence enhancement provisions, including the addition of new provisions and the deletion of obsolete provisions.</p> <p>For the purposes of this section, the term "sentence enhancement" means an additional term of imprisonment in the state prison added to the base term for the underlying offense. A sentence enhancement is imposed because of the nature of the offense at the time the offense was committed or because the defendant suffered a qualifying prior conviction before committing the current offense.</p> <p>(h) The provisions listed in this subdivision imposing a sentence enhancement of three years' imprisonment in the state prison may be referenced as Schedule H.</p> <p>(12) Commission of any specified sex offense with knowledge that the defendant has acquired immunodeficiency syndrome (AIDS) or with the knowledge that he or she carries antibodies of the human immunodeficiency virus at the time of the commission of the offense (subd. (a), Sec. 12022.85, Pen. C.).</p>
§1001.10	<p>Participation in AIDS education program</p> <p>(a) The judge shall require any person described in subdivision (b), as a condition of either placing the person on probation or of permitting the person to participate in a drug diversion program to agree to participate in an AIDS education program. Testing for AIDS antibodies shall be offered but no person described in subdivision (b) shall be required to be tested.</p> <p>(b) This section shall apply to any person who has either been placed on probation or granted diversion for, any of the following:</p> <p>(1) A violation of subdivision (a) of Section 11350 of the Health and Safety Code, subdivision (a) of Section 11377 of the Health and Safety Code, Section 11550 of the Health and Safety Code, Section 4143 or 4149 of the Business and Professions Code, or of subdivision (f) of Section 647 if the offense involves intravenous use of a controlled substance.</p> <p>(2) A violation of subdivision (a) or (b) of Section 647.</p>

CA Penal Code §	Code Language
§1001.11	<p>Responsible agency; Contents of program</p> <p>(a) The health department in each county shall select an agency, or agencies, in the county that shall provide AIDS prevention education to those persons sentenced to probation or a drug diversion program in accordance with Section 1001.10. The health department shall endeavor to select an agency, or agencies, that currently provide AIDS prevention education programs to substance abusers or prostitutes. If no agency is currently providing this education, the county agency responsible for substance abuse shall develop an AIDS prevention education program either within the agency or under contract with a community-based, nonprofit organization in the county. The health department shall forward to the courts a list of agencies selected for purposes of referral in accordance with Section 1001.10. Reimbursement for the costs of implementing this section shall be made out of moneys deposited with the county treasurer in accordance with Section 1463.23.</p> <p>(b) An AIDS prevention education program providing services pursuant to subdivision (a) shall, at a minimum, include details about the transmission of human immunodeficiency virus (HIV), the etiologic agent for AIDS, symptoms of AIDS or 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 assistance if the person decides to take a test for the etiologic agent for AIDS and receives a positive test result. The program shall also include other relevant medical and prevention information as it becomes available.</p> <p>(c) A person sentenced to a drug diversion program pursuant to Section 1001.10 shall not be required to participate in an AIDS prevention education program, provided that the drug diversion program includes an AIDS prevention education component that meets the requirements of subdivision (b).</p>
§1202.1	<p>Requirement of AIDS test upon conviction of sex offense</p> <p>(a) Notwithstanding Sections 120975 and 120990 of the Health and Safety Code, the court shall order every person who is convicted of, or adjudged by the court to be a person described by Section 601 or 602 of the Welfare and Institutions Code as provided in Section 725 of the Welfare and Institutions Code by reason of a violation of, a sexual offense listed in subdivision (e), whether or not a sentence or fine is imposed or probation is granted, to submit to a blood or oral mucosal transudate saliva test for evidence of antibodies to the probable causative agent of acquired immune deficiency syndrome (AIDS) within 180 days of the date of conviction. Each person tested under this section shall be informed of the results of the blood or oral mucosal transudate saliva test.</p> <p>(b) Notwithstanding Section 120980 of the Health and Safety Code, the results of the blood or oral mucosal transudate saliva test to detect antibodies to the probable causative agent of AIDS shall be transmitted by the clerk of the court to the Department of Justice and the local health officer.</p>

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	<p>(c) Notwithstanding Section 120980 of the Health and Safety Code, the Department of Justice shall provide the results of a test or tests as to persons under investigation or being prosecuted under Section 647f or 12022.85, if the results are on file with the department, to the defense attorney upon request and the results also shall be available to the prosecuting attorney upon request for the purpose of either preparing counts for a subsequent offense under Section 647f or sentence enhancement under Section 12022.85 or complying with subdivision (d).</p> <p>(d) (1) In every case in which a person is convicted of a sexual offense listed in subdivision (e) or adjudged by the court to be a person described by Section 601 or 602 of the Welfare and Institutions Code as provided in Section 725 of the Welfare and Institutions Code by reason of the commission of a sexual offense listed in subdivision (e), the prosecutor or the prosecutor's victim-witness assistance bureau shall advise the victim of his or her right to receive the results of the blood or oral mucosal transudate saliva test performed pursuant to subdivision (a). The prosecutor or the prosecutor's victim-witness assistance bureau shall refer the victim to the local health officer for counseling to assist him or her in understanding the extent to which the particular circumstances of the crime may or may not have placed the victim at risk of transmission of the human immunodeficiency virus (HIV) from the accused, to ensure that the victim understands the limitations and benefits of current tests for HIV, and to assist the victim in determining whether he or she should make the request.</p> <p>(2) Notwithstanding any other law, upon the victim's request, the local health officer shall be responsible for disclosing test results to the victim who requested the test and the person who was tested. However, as specified in subdivision (g), positive test results shall not be disclosed to the victim or the person who was tested without offering or providing professional counseling appropriate to the circumstances as follows:</p> <p>(A) To help the victim understand the extent to which the particular circumstances of the crime may or may not have put the victim at risk of transmission of HIV from the perpetrator.</p> <p>(B) To ensure that the victim understands both the benefits and limitations of the current tests for HIV.</p> <p>(C) To obtain referrals to appropriate health care and support services.</p> <p>(e) For purposes of this section, "sexual offense" includes any of the following:</p> <p>(1) Rape in violation of Section 261 or 264.1.</p> <p>(2) Unlawful intercourse with a person under 18 years of age in violation of Section 261.5 or 266c.</p> <p>(3) Rape of a spouse in violation of Section 262 or 264.1.</p> <p>(4) Sodomy in violation of Section 266c or 286.</p> <p>(5) Oral copulation in violation of Section 266c or 288a.</p> <p>(6) (A) Any of the following offenses if the court finds that there is probable cause to believe that blood, semen, or any other bodily fluid capable of transmitting HIV has been transferred from the defendant to the victim:</p> <p>(i) Sexual penetration in violation of Section 264.1, 266c, or 289.</p> <p>(ii) Aggravated sexual assault of a child in violation of Section 269.</p>

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	<p>(iii) Lewd or lascivious conduct with a child in violation of Section 288. (iv) Continuous sexual abuse of a child in violation of Section 288.5. (v) The attempt to commit any offense described in clauses (i) to (iv), inclusive. (B) For purposes of this paragraph, the court shall note its finding on the court docket and minute order if one is prepared.</p> <p>(f) Any blood or oral mucosal transudate saliva tested pursuant to subdivision (a) shall be subjected to appropriate confirmatory tests to ensure accuracy of the first test results, and under no circumstances shall test results be transmitted to the victim or the person who is tested unless any initially reactive test result has been confirmed by appropriate confirmatory tests for positive reactors.</p> <p>(g) The local health officer shall be responsible for disclosing test results to the victim who requested the test and the person who was tested. However, positive test results shall not be disclosed to the victim or the person who was tested without offering or providing professional counseling appropriate to the circumstances.</p> <p>(h) The local health officer and the victim shall comply with all laws and policies relating to medical confidentiality, subject to the disclosure authorized by subdivisions (g) and (i).</p> <p>(i) Any victim who receives information from the local health officer pursuant to subdivision (g) may disclose the information as he or she deems necessary to protect his or her health and safety or the health and safety of his or her family or sexual partner.</p> <p>(j) Any person who transmits test results or discloses information pursuant to this section shall be immune from civil liability for any action taken in compliance with this section.</p>
§1202.6	<p>AIDS testing and education for person convicted of soliciting or engaging in prostitution</p> <p>(a) Notwithstanding Sections 120975, 120980, and 120990 of the Health and Safety Code, upon the first conviction of any person for a violation of subdivision (b) of Section 647, the court shall, before sentencing or as a condition of probation, order the defendant to complete instruction in the causes and consequences of acquired immune deficiency syndrome (AIDS) pursuant to subdivision (d) and shall order the defendant to submit to testing for AIDS in accordance with subdivision (e). In addition, the court shall refer a defendant, where appropriate, to a program under Article 3.2 (commencing with Section 11320) of Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions Code or to any drug diversion program, or both.</p> <p>(b) Upon a second or subsequent conviction of a violation of subdivision (b) of Section 647, the court shall, before sentencing, order the defendant to submit to testing for AIDS in accordance with subdivision (e).</p>

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	<p>(c) At the sentencing hearing of a defendant ordered to submit to testing for AIDS pursuant to subdivision (a) or (b), the court shall furnish the defendant with a copy of the report submitted pursuant to subdivision (e) and shall direct the clerk to note the receipt of the report by the defendant in the records of the case.</p> <p>If the results of the test described in the report are positive, the court shall make certain that the defendant understands the nature and meaning of the contents of the report and shall further advise the defendant of the penalty established in Section 647f for a subsequent violation of subdivision (b) of Section 647.</p> <p>(d) The county health officer in each county shall select an agency, or agencies, in the county that shall provide AIDS prevention education. The county health officer shall endeavor to select an agency, or agencies, that currently provide AIDS prevention education programs to substance abusers or prostitutes. If no agency is currently providing this education, the county agency responsible for substance abuse shall develop an AIDS prevention education program either within the agency or under contract with a community-based, nonprofit organization in the county. The county health officer shall forward to the courts a list of agencies selected for purposes of referral.</p> <p>An AIDS prevention education program providing services, at a minimum, shall include details about the transmission of human immunodeficiency virus (HIV), the etiologic agent for AIDS, symptoms of AIDS or AIDS-related conditions, prevention through avoidance or cleaning of needles, sexual practices that constitute high risk, low risk, and no risk (including abstinence), and resources for assistance if the person decides to take a test for the etiologic agent for AIDS and receives a positive test result. The program also shall include other relevant medical and prevention information as it becomes available.</p> <p>(e) The court shall order testing of every defendant as ordered pursuant to subdivision (a) or (b) for evidence of antibodies to the probable causative agent of acquired immune deficiency syndrome. Notwithstanding Section 120980 of the Health and Safety Code, written copies of the report on the test shall be furnished to both of the following:</p> <ol style="list-style-type: none"> (1) The court in which the defendant is to be sentenced. (2) The State Department of Health Services. <p>(f) Except as provided in subdivisions (c) and (g), the reports required by subdivision (e) shall be confidential.</p> <p>(g) The State Department of Health Services shall maintain the confidentiality of the reports received pursuant to subdivision (e), except that the department shall furnish copies of any report to a district attorney upon request.</p>
§1524.1	<p>HIV testing of criminal defendants</p> <p>(a) The primary purpose of the testing and disclosure provided in this section is to benefit the victim of a crime by informing the victim whether the defendant is infected with the HIV virus. It is also the intent of the</p>

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	<p>Legislature in enacting this section to protect the health of both victims of crime and those accused of committing a crime. Nothing in this section shall be construed to authorize mandatory testing or disclosure of test results for the purpose of a charging decision by a prosecutor, nor, except as specified in subdivisions (g) and (i), shall this section be construed to authorize breach of the confidentiality provisions contained in Chapter 7 (commencing with Section 120975) of Part 4 of Division 105 of the Health and Safety Code.</p> <p>(b)(1) Notwithstanding the provisions of Chapter 7 (commencing with Section 120975) of Part 4 of Division 105 of the Health and Safety Code, when a defendant has been charged by complaint, information, or indictment with a crime, or a minor is the subject of a petition filed in juvenile court alleging the commission of a crime, the court, at the request of the victim, may issue a search warrant for the purpose of testing the accused's blood or oral mucosal transudate saliva with any HIV test, as defined in Section 120775 of the Health and Safety Code only under the following circumstances: when the court finds, upon the conclusion of the hearing described in paragraph (3), or in those cases in which a preliminary hearing is not required to be held, that there is probable cause to believe that the accused committed the offense, and that there is probable cause to believe that blood, semen, or any other bodily fluid identified by the State Department of Health Services in appropriate regulations as capable of transmitting the human immunodeficiency virus has been transferred from the accused to the victim.</p> <p>(2) Notwithstanding Chapter 7 (commencing with Section 120975) of Part 4 of Division 105 of the Health and Safety Code, when a defendant has been charged by complaint, information, or indictment with a crime under Section 220, 261, 261.5, 262, 264.1, 266c, 269, 286, 288, 288a, 288.5, 289, or 289.5, or with an attempt to commit any of the offenses, and is the subject of a police report alleging the commission of a separate, uncharged offense that could be charged under Section 220, 261, 261.5, 262, 264.1, 266c, 269, 286, 288, 288a, 288.5, 289, or 289.5, or of an attempt to commit any of the offenses, or a minor is the subject of a petition filed in juvenile court alleging the commission of a crime under Section 220, 261, 261.5, 262, 264.1, 266c, 269, 286, 288, 288a, 288.5, 289, or 289.5, or of an attempt to commit any of the offenses, and is the subject of a police report alleging the commission of a separate, uncharged offense that could be charged under Section 220, 261, 261.5, 262, 264.1, 266c, 269, 286, 288, 288a, 288.5, 289, or 289.5, or of an attempt to commit any of the offenses, the court, at the request of the victim of the uncharged offense, may issue a search warrant for the purpose of testing the accused's blood or oral mucosal transudate saliva with any HIV test, as defined in Section 120775 of the Health and Safety Code only under the following circumstances: when the court finds that there is probable cause to believe that the accused committed the uncharged offense, and that there is probable cause to believe that blood, semen, or any other bodily fluid identified by the State Department of Health Services in appropriate regulations as capable of transmitting the human immunodeficiency virus has been transferred from the accused to the victim. As used in this paragraph, "Section 289.5" refers to the statute enacted by Chapter 293 of the Statutes of 1991, penetration by an unknown object.</p>

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	<p>(3)(A) Prior to the issuance of a search warrant pursuant to paragraph (1), the court, where applicable and at the conclusion of the preliminary examination if the defendant is ordered to answer pursuant to Section 872, shall conduct a hearing at which both the victim and the defendant have the right to be present. During the hearing, only affidavits, counter affidavits, and medical reports regarding the facts that support or rebut the issuance of a search warrant under paragraph (1) shall be admissible.</p> <p>(B) Prior to the issuance of a search warrant pursuant to paragraph (2), the court, where applicable, shall conduct a hearing at which both the victim and the defendant are present. During the hearing, only affidavits, counter affidavits, and medical reports regarding the facts that support or rebut the issuance of a search warrant under paragraph (2) shall be admissible.</p> <p>(4) A request for a probable cause hearing made by a victim under paragraph (2) shall be made before sentencing in the superior court, or before disposition on a petition in a juvenile court, of the criminal charge or charges filed against the defendant.</p> <p>(c)(1) In all cases in which the person has been charged by complaint, information, or indictment with a crime, or is the subject of a petition filed in a juvenile court alleging the commission of a crime, the prosecutor shall advise the victim of his or her right to make this request. To assist the victim of the crime to determine whether he or she should make this request, the prosecutor shall refer the victim to the local health officer for prerequest counseling to help that person understand the extent to which the particular circumstances of the crime may or may not have put the victim at risk of transmission of HIV from the accused, to ensure that the victim understands both the benefits and limitations of the current tests for HIV, to help the victim decide whether he or she wants to request that the accused be tested, and to help the victim decide whether he or she wants to be tested.</p> <p>(2) The Department of Justice, in cooperation with the California District Attorneys Association, shall prepare a form to be used in providing victims with the notice required by paragraph (1).</p> <p>(d) If the victim decides to request HIV testing of the accused, the victim shall request the issuance of a search warrant, as described in subdivision (b). Neither the failure of a prosecutor to refer or advise the victim as provided in this subdivision, nor the failure or refusal by the victim to seek or obtain counseling, shall be considered by the court in ruling on the victim's request.</p> <p>(e) The local health officer shall make provision for administering all HIV tests ordered pursuant to subdivision (b).</p> <p>(f) Any blood or oral mucosal transudate saliva tested pursuant to subdivision (b) shall be subjected to appropriate confirmatory tests to ensure accuracy of the first test results, and under no circumstances shall test results be transmitted to the victim or the accused unless any initially reactive test result has been confirmed by appropriate confirmatory tests for positive reactors.</p>

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	<p>(g) The local health officer shall have the responsibility for disclosing test results to the victim who requested the test and to the accused who was tested. However, no positive test results shall be disclosed to the victim or to the accused without also providing or offering professional counseling appropriate to the circumstances.</p> <p>(h) The local health officer and victim shall comply with all laws and policies relating to medical confidentiality subject to the disclosure authorized by subdivisions (g) and (i). Any individual who files a false report of sexual assault in order to obtain test result information pursuant to this section shall, in addition to any other liability under law, be guilty of a misdemeanor punishable as provided in subdivision (c) of Section 120980 of the Health and Safety Code. Any individual as described in the preceding sentence who discloses test result information obtained pursuant to this section shall also be guilty of an additional misdemeanor punishable as provided for in subdivision (c) of Section 120980 of the Health and Safety Code for each separate disclosure of that information.</p> <p>(i) Any victim who receives information from the health officer pursuant to subdivision (g) may disclose the test results as the victim deems necessary to protect his or her health and safety or the health and safety of his or her family or sexual partner.</p> <p>(j) Any person transmitting test results or disclosing information pursuant to this section shall be immune from civil liability for any actions taken in compliance with this section.</p> <p>(k) The results of any blood or oral mucosal transudate saliva tested pursuant to subdivision (b) shall not be used in any criminal proceeding as evidence of either guilt or innocence.</p>
§4018.1	<p>Provision of information about acquired immune deficiency syndrome (AIDS)</p> <p>Subject to the availability of adequate state funding for these purposes, 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 high risk for contracting the human immunodeficiency virus (HIV), and about the prevention of the transmission of acquired immune deficiency syndrome (AIDS). Each county sheriff or the chief county probation officer shall provide all inmates who have been sentenced for drug-related offenses, who are within one month of release, or who have been placed on probation, with information about behavior that places a person at high risk for contracting HIV, about the prevention of the transmission of AIDS, and about agencies and facilities that provide testing, counseling, medical, and support services for AIDS victims. Information about AIDS prevention shall be solicited by each county sheriff or chief county probation officer from the State Department of Health Services, the county health officer, or local agencies providing services to persons with AIDS. The Director of Health Services, or his or her designee, shall approve protocols pertaining to the information to be disseminated under this section.</p>

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§5008.1.	<p>Provision of information about acquired immune deficiency syndrome (AIDS)</p> <p>Subject to the availability of adequate state funding for these purposes, the Director of Corrections shall provide all inmates at each penal institution and prison facility under the jurisdiction of the department with information about behavior that places a person at high risk for contracting the human immunodeficiency virus (HIV), and about the prevention of transmission of acquired immune deficiency syndrome (AIDS). The director shall provide all inmates, 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. Information about AIDS prevention shall be solicited by the director from the State Department of Health Services, the county health officer, or local agencies providing services to persons with AIDS. The Director of Health Services, or his or her designee, shall approve protocols pertaining to the information to be disseminated under this section.</p>
§7500	<p>Legislative findings and declarations</p> <p>(f) Testing described in this title of individuals housed within state and local correctional facilities for evidence of infection by HIV would help to provide a level of information necessary for effective disease control within these institutions and would help to preserve the health of public employees, inmates, and persons in custody, as well as that of the public at large. This testing is not intended to be, and shall not be construed as, a prototypical method of disease control for the public at large.</p>
§7501	<p>Legislative intent</p> <p>In order to address the public health crisis described in Section 7500, it is the intent of the Legislature to do all of the following:</p> <p>(a) Establish a procedure through which custodial and law enforcement personnel are required to report certain situations and may request and be granted a confidential test for HIV or for hepatitis B or C of an inmate convicted of a crime, or a person arrested or taken into custody, if the custodial or law enforcement officer has reason to believe that he or she has come into contact with the blood or semen of an inmate or in any other manner has come into contact with the inmate in a way that could result in HIV infection, or the transmission of hepatitis B or C, based on the latest determinations and conclusions by the federal Centers for Disease Control and Prevention and the State Department of Health Services on means for the transmission of AIDS or hepatitis B and C, and if appropriate medical authorities, as provided in this title, reasonably believe there is good medical reason for the test.</p> <p>(b) Permit inmates to file similar requests stemming from contacts with other inmates.</p> <p>(c) Require that probation and parole officers be notified when an inmate being released from incarceration is infected with AIDS or hepatitis B or C,</p>

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	<p>and permit these officers to notify certain persons who will come into contact with the parolee or probationer, if authorized by law.</p> <p>(d) Authorize prison medical staff authorities to require tests of a jail or prison inmate under certain circumstances, if they reasonably believe, based upon the existence of supporting evidence, that the inmate may be suffering from HIV infection or AIDS or hepatitis B or C and is a danger to other inmates or staff.</p> <p>(e) Require supervisory and medical personnel of correctional institutions to which this title applies to notify staff if they are coming into close and direct contact with persons in custody who have tested positive or who have AIDS or hepatitis B or C, and provide appropriate counseling and safety equipment.</p>
§7502	<p>Definitions</p> <p>As used in this title, the following terms shall have the following meanings:</p> <p>(a) "Correctional institution" means any state prison, county jail, city jail, Division of Juvenile Justice facility, county- or city-operated juvenile facility, including juvenile halls, camps, or schools, or any other state or local correctional institution, including a court facility.</p> <p>(b) "Counseling" means counseling by a licensed physician and surgeon, registered nurse, or other health professional who meets guidelines which shall be established by the State Department of Health Services for purposes of providing counseling on AIDS and hepatitis B and C to inmates, persons in custody, and other persons pursuant to this title.</p> <p>(c) "Law enforcement employee" means correctional officers, peace officers, and other staff of a correctional institution, California Highway Patrol officers, county sheriff's deputies, city police officers, parole officers, probation officers, and city, county, or state employees including but not limited to, judges, bailiffs, court personnel, prosecutors and staff, and public defenders and staff, who, as part of the judicial process involving an inmate of a correctional institution, or a person charged with a crime, including a minor charged with an offense for which he or she may be made a ward of the court under Section 602 of the Welfare and Institutions Code, are engaged in the custody, transportation, prosecution, representation, or care of these persons.</p> <p>(d) "AIDS" means acquired immune deficiency syndrome.</p> <p>(e) "Human immunodeficiency virus" or "HIV" means the etiologic virus of AIDS.</p> <p>(f) "HIV test" or "HIV testing" means any clinical laboratory test approved by the federal Food and Drug Administration for HIV, component of HIV, or antibodies to HIV.</p> <p>(g) "Inmate" means any of the following: (1) A person in a state prison, or city and county jail, who has been</p>

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	<p>either convicted of a crime or arrested or taken into custody, whether or not he or she has been charged with a crime.</p> <p>(2) Any person in a Division of Juvenile Justice facility, or county- or city-operated juvenile facility, who has committed an act, or been charged with committing an act specified in Section 602 of the Welfare and Institutions Code.</p> <p>(h) "Bodily fluids" means blood, semen, or any other bodily fluid identified by either the federal Centers for Disease Control and Prevention or State Department of Health Services in appropriate regulations as capable of transmitting HIV or hepatitis B or C.</p> <p>(i) "Minor" means a person under 15 years of age.</p>
§7510	<p>Incident reports; Procedure; Requirements</p> <p>(a) A law enforcement employee who believes that he or she came into contact with bodily fluids of either an inmate of a correctional institution, a person not in a correctional institution who has been arrested or taken into custody whether or not the person has been charged with a crime, including a person detained for or charged with an offense for which he or she may be made a ward of the court under Section 602 of the Welfare and Institutions Code, or a person on probation or parole due to conviction of a crime, shall report the incident through the completion of a form provided by the State Department of Health Services. The form shall be directed to the chief medical officer, as defined in subdivision (c), who serves the applicable law enforcement agency. Utilizing this form the law enforcement employee may request an HIV test of the person who is the subject of the report. The forms may be combined with regular incident reports or other forms used by the correctional institution or law enforcement agency, however the processing of a form by the chief medical officer containing a request for HIV testing of the subject person shall not be delayed by the processing of other reports or forms.</p> <p>(b) The report required by subdivision (a) shall be submitted by the end of the law enforcement employee's shift during which the incident occurred, or if not practicable, as soon as possible, but no longer than two days after the incident, except that the chief medical officer may waive this filing period requirement if he or she finds that good cause exists. The report shall include names of witnesses to the incident, names of persons involved in the incident, and if feasible, any written statements from these parties. The law enforcement employee shall assist in the investigation of the incident, as requested by the chief medical officer.</p> <p>(c) For purposes of this section and Section 7511, "chief medical officer" means:</p> <p>(1) In the case of a report filed by a staff member of a state prison, the chief medical officer of that facility.</p> <p>(2) In the case of a parole officer filing a report, the chief medical officer of the nearest state prison.</p> <p>(3) In the case of a report filed by an employee of the Department of the Youth Authority, the chief medical officer of the facility.</p>

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	<p>(4) In the case of a report filed against a subject who is an inmate of a city or county jail or a county- or city-operated juvenile facility, or who has been arrested or taken into custody whether or not the person has been charged with a crime, but who is not in a correctional facility, including a person detained for or charged with an offense for which he or she may be made a ward of the court under Section 602 of the Welfare and Institutions Code, the county health officer of the county in which the individual is jailed or charged with the crime.</p> <p>(5) In the case of a report filed by a probation officer, the county health officer of the county in which the probation officer is employed.</p> <p>(6) In any instance where the chief medical officer, as determined pursuant to this subdivision, is not a physician and surgeon, the chief medical officer shall designate a physician and surgeon to perform his or her duties under this title.</p>
§7512	<p>Inmate request for test of other inmate; Minors; Investigation procedure; Decision</p> <p>(a) An inmate of a correctional institution may request HIV testing of another inmate of that institution if he or she has reason to believe that he or she has come into contact with the bodily fluids of that inmate, in situations, which may include, but are not limited to, rape or sexual contact with a potentially infected inmate, tattoo or drug needle sharing, an incident involving injury in which bodily fluids are exchanged, or confinement with a cellmate under circumstances involving possible mingling of bodily fluids. A request may be filed under this section only within two calendar days of the date when the incident causing the request occurred, except that the chief medical officer may waive this filing period requirement when he or she finds that good cause exists.</p> <p>(b) An inmate in a California Youth Authority facility or any county- or city-operated juvenile facility who is 15 years of age or older, may file a request for a test of another inmate in that facility, in the same manner as an inmate in a state prison, and is subject to the same procedures and rights. An inmate in a California Youth Authority facility or a county- or city-operated juvenile facility who is a minor may file such a request through a staff member of the facility in which he or she is confined. A staff member may file this request on behalf of a minor on his or her own volition if he or she believes that a situation meeting the criteria specified in subdivision (a) has occurred warranting the request. The filing of a request by staff on behalf of an inmate of a California Youth Authority facility or a local juvenile facility shall be within two calendar days of its discovery by staff, except that the chief medical officer may waive this filing period requirement if he or she finds that good cause exists.</p> <p>When a request is filed on behalf of a minor, the facility shall notify the parent or guardian of the minor of the request and seek permission from the parent or guardian for the test request to proceed. If the parent or guardian refuses to grant permission for the test, the Director of the Youth Authority may request the juvenile court in the county in which the facility is located, to rule on whether the test request procedure set forth in this title shall continue. The juvenile court shall make a ruling within five days of the case being brought before the court.</p>

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	<p>If the parent or guardian cannot be located, the superintendent of the facility shall approve or disapprove the request for a test.</p> <p>(c) Upon receipt of a request for testing as provided in this section, a law enforcement employee shall submit the request to the chief medical officer, the identity of which shall be determined as if the request had been made by an employee of the facility. The chief medical officer shall follow the procedures set forth in Section 7511 with respect to investigating the request and reaching a decision as to mandatory testing of the inmate who is the subject of the request. The inmate submitting the request shall provide names or testimony of witnesses within the limits of his or her ability to do so. The chief medical officer shall make his or her decision based on the criteria set forth in Section 7511. A copy of the chief medical officer's decision shall be provided to the person submitting the request for HIV testing, to the subject of the request, and to the superintendent of the correctional institution. In the case of a minor, a copy of the decision shall be provided to the parents or guardian of the minor, unless the parent or guardian of the minor cannot be located.</p>
§7512.5	<p>Inmate testing in absence of report; Decision</p> <p>In the absence of the filing of a report pursuant to Section 7510 or a request pursuant to Section 7512, the chief medical officer, may order a test of an inmate if he or she concludes there are clinical symptoms of HIV infection or AIDS, as recognized by the Centers for Disease Control and Prevention. A copy of the decision shall be provided to the inmate, and where the inmate is a minor, to the parents or guardian of the minor, unless the parent or guardian of the minor cannot be located. Any decision made pursuant to this section shall not be appealable to a three-member panel provided for under Section 7515.</p>
§7513	<p>Rights of inmate who is subject of HIV test report</p> <p>An inmate who is the subject of an HIV test report filed pursuant to Section 7510 or an HIV test report filed pursuant to Section 7512 shall receive, in conjunction with the decision of the chief medical officer to order a test, a copy of this title, a written description of the right to appeal the chief medical officer's decision which includes the applicable timelines, and notification of his or her right to receive pretest and posttest counseling by staff that have been certified as HIV test counselors.</p>
§7514	<p>Counseling; Voluntary testing; Costs</p> <p>(a) It shall be the chief medical officer's responsibility to see that personal counseling is provided to a law enforcement employee filing a report pursuant to Section 7510, an inmate filing a request pursuant to Section 7512, and any potential test subject, at the time the initial report or request for tests is made, at the time when tests are ordered, and at the time when test results are provided to the employee, inmate, or test subject. The chief medical officer may provide additional counseling to any of these individuals, upon his or her request, or whenever the chief medical</p>

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	<p>officer deems advisable, and may arrange for the counseling to be provided in other jurisdictions. The chief medical officer shall encourage the subject of the report or request, the law enforcement employee who filed the report, the person who filed the request pursuant to Section 7512, or in the case of a minor, the minor on whose behalf the request was filed, to undergo voluntary HIV testing if the chief medical officer deems it medically advisable. All testing required by this title or any voluntary testing resulting from the provisions of this title, shall be at the expense of the appropriate correctional institution.</p> <p>(b) Notwithstanding the repeal of this section in accordance with Section 7555, the duties imposed by this subdivision shall continue in effect until they have been complied with.</p>
§7515	<p>Appeal of decision; Panel membership; Hearing; Decision</p> <p>(a) A decision of the chief medical officer made pursuant to Section 7511, 7512, or 7516 may be appealed, within three calendar days of receipt of the decision, to a three-person panel, either by the person required to be tested, his or her parent or guardian when the subject is a minor, the law enforcement employee filing a report pursuant to either Section 7510 or 7516, or the person requesting testing pursuant to Section 7512, whichever is applicable, or the chief medical officer, upon his or her own motion. If no request for appeal is filed under this subdivision, the chief medical officer's decision shall be final.</p> <p>(b) Depending upon which entity has jurisdiction over the person requesting or appealing a test, the Department of Corrections, the Department of the Youth Authority, the county, the city, or the county and city shall convene the appeal panel and shall ensure that the appeal is heard within seven calendar days .</p> <p>(c) A panel required pursuant to subdivision (a) or (b) shall consist of three members, as follows:</p> <ol style="list-style-type: none"> (1) The chief medical officer making the original decision. (2) A physician and surgeon who has knowledge in the diagnosis, treatment, and transmission of HIV, selected by the Department of Corrections, the Department of the Youth Authority, the county, the city, or the county and city. The physician and surgeon appointed pursuant to this paragraph shall preside at the hearing and serve as chairperson. (3) A physician and surgeon not on the staff of, or under contract with, a state, county, city, or county and city correctional institution or with an employer of a law enforcement employee as defined in subdivision (b) of Section 7502, and who has knowledge of the diagnosis, treatment, and transmission of HIV. The physician and surgeon appointed pursuant to this paragraph shall be selected by the State Department of Health Services from a list of persons to be compiled by that department. The State Department of Health Services shall adopt standards for selecting persons for the list required by this paragraph, as well as for their reimbursement, and shall, to the extent possible, utilize its normal process for selecting consultants in compiling this list. <p>The Legislature finds and declares that the presence of a physician and</p>

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	<p>surgeon on the panel who is selected by the State Department of Health Services enhances the objectivity of the panel, and it is the intent of the Legislature that the State Department of Health Services make every attempt to comply with this subdivision.</p> <p>(d) The Department of Corrections, the county, the city, or the county and city shall notify the Office of AIDS in the State Department of Health Services when a panel must be convened under subdivision (a). Within two calendar days of the notification, a physician and surgeon appointed under paragraph (3) of subdivision (c) shall reach agreement with the Department of Corrections, the county, the city, or the county and city on a date for the hearing that complies with subdivision (b).</p> <p>(e) If the Office of AIDS in the State Department of Health Services fails to comply with subdivision (d) or the physician and surgeon appointed under paragraph (3) of subdivision (c) fails to attend the scheduled hearing, the Department of Corrections, the county, the city, or the county and city shall appoint a physician or surgeon who has knowledge of the diagnosis, treatment, and transmission of HIV to serve on the appeals panel to replace the physician and surgeon required under paragraph (3) of subdivision (c). The Department of Corrections, the county, the city, or the county and city shall have standards for selecting persons under this subdivision and for their reimbursement.</p> <p>The Department of Corrections, the Department of the Youth Authority, the county, the city, or the county and city shall, whenever feasible, create, and utilize ongoing panels to hear appeals under this section. The membership of the panel shall meet the requirements of paragraphs (1), (2), and (3) of subdivision (c).</p> <p>No panel shall be created pursuant to this paragraph by a county, city, or county and city correctional institution except with the prior approval of the local health officer.</p> <p>(f) A hearing conducted pursuant to this section shall be closed, except that each of the following persons shall have the right to attend the hearing, speak on the issues presented at the hearing, and call witnesses to testify at the hearing:</p> <ol style="list-style-type: none"> (1) The chief medical officer, who may also bring staff essential to the hearing, as well as the other two members of the panel. (2) The subject of the chief medical officer's decision, except that a subject who is a minor may attend only with the consent of his or her parent or guardian and, if the subject is a minor, his or her parent or guardian. (3) The law enforcement employee filing the report pursuant to Section 7510, or the person requesting HIV testing pursuant to Section 7512, whichever is applicable and, if the person is a minor, his or her parent or guardian. <p>(g) The subject of the test, or the person requesting the test pursuant to Section 7512, or who filed the report pursuant to Section 7510, whichever is applicable, may appoint a representative to attend the hearing in order to assist him or her.</p>

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	<p>(h) When a hearing is sought pursuant to this section, or filed by a law enforcement employee pursuant to a request made under Section 7510, the decision shall be rendered within two days of the hearing. A unanimous vote of the panel shall be necessary in order to require that the subject of the hearing undergo HIV testing.</p> <p>The criteria specified in Section 7511 for use by the chief medical officer shall also be utilized by the panel in making its decision.</p> <p>The decision shall be in writing, stating reasons for the decision, and shall be signed by the members. A copy shall be provided by the chief medical officer to the person requesting the test, or filing the report, whichever is applicable, to the subject of the test, and, when the subject is in a correctional institution, to the superintendent of the institution, except that, when the subject of the test or the person upon whose behalf the request for the test was made is a minor, copies shall also be provided to the parent or guardian of the person, unless the parent or guardian cannot be located.</p>
§7516	<p>Reportable activities; Investigation; Required testing; Appeal; Hearing; Limit on testing; Decision</p> <p>(a) When a custodial officer or staff person of a correctional institution, observes or is informed of activity in a correctional institution that is classified as causing, or known to cause, the transmission of the AIDS virus, as described in subdivision (b), he or she may file a written report with the facility's chief medical officer which, in the case of city or county jails, shall be the county health officer.</p> <p>(b) Reportable activities within a correctional institution for which a report may be filed pursuant to subdivision (a) include, but are not limited to, all of the following activities, if they could result in the transmission of AIDS, according to the standards provided for in this chapter:</p> <ol style="list-style-type: none"> (1) Sexual activity resulting in exchange of bodily fluids. (2) IV drug use. (3) Incidents involving injury to inmates or staff in which bodily fluids are exchanged. (4) Tampering with medical and food supplies or medical or food equipment. (5) Tattooing among inmates. <p>(c) 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 result in the transmission of HIV, utilizing the criteria set forth in Section 7511, and pose a danger to the health and safety of the institution's staff and inmate population.</p> <p>If the chief medical officer concludes this may have occurred, he or she shall require HIV testing of any inmate which he or she deems necessary pursuant to the investigation. Whenever an inmate is required to undergo an HIV test pursuant to this subdivision, he or she may appeal that decision as provided for in Section 7515.</p> <p>(d) Testing under this section may only be required by a unanimous vote of all three members of the panel. The rights guaranteed inmates under</p>

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	<p>Section 7515 shall apply.</p> <p>When a hearing is convened pursuant to this section, the hearing shall be closed, except that both the person filing the original report and the chief medical officer as well as other panel members may also call witnesses to testify at the hearing.</p> <p>When a hearing is sought pursuant to this section, the decision shall be rendered within 20 days of the date the hearing is sought by the medical officer.</p> <p>(e) This section shall apply to situations involving individual inmates or group situations but shall not be utilized to require testing of all inmates in a correctional institution.</p> <p>(f) The findings of the panel shall be set forth in writing, including reasons for the panel's decision, and shall be signed by the members of the panel. A copy of the decision shall be provided to the superintendent of the correctional institution, the subjects of the report and to any inmates or officers whom the panel concludes may have been exposed to HIV infection as established by provisions of this title.</p>
§7520	<p>Information to parole or probation officer; Responsibilities</p> <p>Upon the release of an inmate from a correctional institution, a medical representative of the institution shall notify the inmate's parole or probation officer, where it is the case, that the inmate has tested positive for infection with HIV, or has been diagnosed as having AIDS or hepatitis B and C. The representative of the correctional institution shall obtain the latest available medical information concerning any precautions which should be taken under the circumstances, and shall convey that information to the parole or probation officer.</p> <p>When a parole or probation officer learns from responsible medical authorities that a parolee or probationer under his or her jurisdiction has AIDS or has tested positive for HIV infection, or hepatitis B or C, the parole or probation officer shall be responsible for ensuring that the parolee or probationer contacts the county health department in order to be, or through his or her own physician and surgeon is, made aware of counseling and treatment for AIDS or hepatitis B or C, as appropriate commensurate with that available to the general population of that county.</p>
§7521	<p>Release of information to spouse or arresting officers; Confidentiality; Penalty for unlawful disclosure</p> <p>a) When a parole or probation officer learns from responsible medical authorities that a parolee or probationer in his or her custody has any of the conditions listed in Section 7520, but that the parolee or probationer has not properly informed his or her spouse, the officer may ensure that this information is relayed to the spouse only through either the chief medical officer of the institution from which the person was released or the physician and surgeon treating the spouse or the parolee or probationer. The parole or probation officer shall seek to ensure that proper counseling accompanies release of this information to the spouse, through the person providing the information to the inmate's spouse.</p>

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	<p>b) If a parole or probation officer has received information from appropriate medical authorities that one of his or her parolees or probationers is HIV infected or has AIDS, and the parolee or probationer has a record of assault on a peace officer, and the officer seeks the aid of local law enforcement officers to apprehend or take into custody the parolee or probationer, he or she shall inform the officers assisting him or her in apprehending or taking into custody the parolee or probationer, of the person's condition, to aid them in protecting themselves from contracting AIDS.</p> <p>c) Local law enforcement officers receiving information pursuant to this subdivision shall maintain confidentiality of information received pursuant to subdivision (b). Willful use or disclosure of this information is a misdemeanor. Parole or probation officers who willfully or negligently disclose information about AIDS infection, other than as prescribed under this title or any other provision of law, shall also be guilty of a misdemeanor.</p>
§7522	<p>Supervisory and medical personnel duties to notify and inform</p> <p>a) Supervisory and medical personnel in correctional institutions shall notify all law enforcement employees when those employees have had direct contact with the bodily fluids of, inmates or persons charged or in custody who either have tested positive for infection with HIV, or been diagnosed as having AIDS.</p> <p>b) Supervisory and medical personnel at correctional institutions shall provide to employees covered by this section the latest medical information regarding precautions to be taken under the circumstances, and shall furnish proper protective clothing and other necessary protective devices or equipment, and instruct staff on the applicability of this title.</p>
§7530	<p>Testing procedures</p> <p>The following procedures shall apply to testing conducted under this title:</p> <p>(a) The withdrawal of blood 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 this title.</p> <p>(b) The chief medical officer, as specified in Chapter 2 (commencing with Section 7510), shall order that the blood specimens be transmitted to a licensed medical laboratory which has been approved by the State Department of Health Services for the conducting of HIV testing, and that tests including all readily available confirmatory tests, be conducted thereon for medically accepted indications of exposure to or infection with HIV. The State Department of Health Services shall adopt standards for the approval of medical laboratories for the conducting of HIV testing under this title. The State Department of Health Services shall adopt standards for the conducting of tests under Section 7530.</p>

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	<p>(c) Copies of the test results shall be sent by the laboratory to the chief medical officer who made the decision under either Section 7511 or 7512 or who convened the panel under Section 7515 or 7516. The laboratory shall be responsible for protecting the confidentiality of these test results. Willful or negligent breach of this responsibility shall be grounds for a violation of the contract.</p> <p>(d) The test results shall be sent by the chief medical officer to the designated recipients with the following disclaimer: "The tests were conducted in a medically approved manner but tests cannot determine exposure to or infection by AIDS or other communicable diseases with absolute accuracy. Persons receiving this test result should continue to monitor their own health and should consult a physician as appropriate."</p> <p>(e) If the person subject to the test is a minor, copies of the test result shall also be sent to the minor's parents or guardian.</p> <p>(f) All persons, other than the test subject, who receive test results shall maintain the confidentiality of personal identifying data relating to the test results, except for disclosure which may be necessary to obtain medical or psychological care or advice, or to comply with this title.</p> <p>(g) The specimens and the results of the tests shall not be admissible evidence in any criminal or disciplinary proceeding.</p> <p>(h) Any person performing testing, transmitting test results, or disclosing information in accordance with this title shall be immune from civil liability for any action undertaken in accordance with this title.</p>
§7531	<p>Confirmation of positive test results Notwithstanding any other provision of law, no positive test results obtained pursuant to this title shall be disclosed to any person unless the initial positive test result has been confirmed by appropriate confirmatory tests for positive reactors.</p>
§7552	<p>Prevention and education programs; Recommended goals</p> <p>a) It is recommended that every city or county correctional, custodial, and law enforcement agency to which this title applies have a comprehensive AIDS and HIV prevention and education program in operation, by March 31, 1989. Recommended goals for the programs include all of the following:</p> <p>(1) Education. Implementation of an educational plan which includes education and training for officers, support staff, and inmates on the prevention and transmission of HIV, with regular updates, at least every three months, with all persons held in custody for at least 12 hours in a correctional institution being provided at least with a pamphlet approved by the county health officer, with more detailed education for persons kept beyond three days.</p> <p>(2) Body fluid precautions. Because all bodily fluids are considered as potentially infectious, supplying all employees of correctional institutions with the necessary equipment and supplies to follow accepted universal</p>

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	<p>bodily fluids precautions, including gloves and devices to administer cardiopulmonary resuscitation, when dealing with infected persons or those in high-risk groups for HIV infection.</p> <p>(3) Separate housing for infected individuals. Making available adequate separate housing facilities for housing inmates who have tested positive for HIV infection and who continue to engage in activities which transmit HIV, with facilities comparable to those of other inmates with access to recreational and educational facilities, commensurate with the facilities available in the correctional institution.</p> <p>(4) Adequate AIDS medical services. The provision of medical services appropriate for the diagnosis and treatment of HIV infection.</p> <p>(5) These guidelines are advisory only and do not constitute a state mandate.</p> <p>b) The program shall require confidentiality of information in accordance with this title and other provisions of the law.</p> <p>c) The Board of Corrections and the State Department of Health Services shall assist in developing the programs.</p>
§7553	<p>Inmate surveys</p> <p>With the approval of the county health officer, the State Department of Health Services, as it deems necessary for HIV detection and prevention, may conduct periodic anonymous unlinked serologic surveys of all or portions of the inmate population or persons under custody within a city or county.</p>
§7554	<p>Reporting of incidents; Law enforcement employees' occupational exposure to HIV infection</p> <p>a) The purpose of this section is to establish the extent of peace officers' occupational exposure for HIV infection.</p> <p>b) The correctional, custodial, or law enforcement agency to which this title applies or the chief medical officer of a correctional, custodial, or law enforcement agency to which this title applies shall report each reportable incident involving a law enforcement employee under this title together with the disposition of each case to the State Department of Health Services.</p> <p>The report shall include all of the following: the assignment of the law enforcement employee; the type of incident; the type of injury sustained; the treatment rendered to the injured employee; citations to criminal laws which were allegedly violated; and the identity of the employing agency. Under no circumstances shall the identity of the law enforcement employee or the source person be transmitted by the local law enforcement agency or the chief medical officer of the local agency to the State Department of Health Services.</p> <p>c) The State Department of Health Services shall release the data, upon written request, to any law enforcement agency or to any bona fide, nonprofit law enforcement research body primarily concerned with peace officer health issues, provided that the identity of any law enforcement</p>

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	<p>employee, any person who is the subject of a report, or any tested person under this title shall remain anonymous. Any unauthorized release of information leading to the identity of a person whose identity is protected under this section shall constitute a misdemeanor.</p> <p>d) For purposes of this section, a "reportable incident" means an incident described in subdivision (a) of Section 7510. A "source person" means a person whose bodily fluids are believed to have contacted the bodily fluids of a law enforcement employee as described in subdivision (a) of Section 7510.</p>
§12022.85	<p>Sentence enhancement for specified violations; Prosecutor's use of test results</p> <p>a) Any person who violates one or more of the offenses listed in subdivision (b) with knowledge that he or she has acquired immune deficiency syndrome (AIDS) or with the knowledge that he or she carries antibodies of the human immunodeficiency virus at the time of the commission of those offenses, shall receive a three-year enhancement for each violation in addition to the sentence provided under those sections.</p> <p>b) Subdivision (a) applies to the following crimes:</p> <ol style="list-style-type: none"> (1) Rape in violation of Section 261. (2) Unlawful intercourse with a person under 18 years of age in violation of Section 261.5. (3) Rape of a spouse in violation of Section 262. (4) Sodomy in violation of Section 286. (5) Oral copulation in violation of Section 288a. <p>c) For purposes of proving the knowledge requirement of this section, the prosecuting attorney may use test results received under subdivision (c) of Section 1202.1 or subdivision (g) of Section 1202.6.</p>

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§ 1250.4	<p>Definitions</p> <p>(a) As used in this section:</p> <p>(1) "Department" means the Department of Corrections or the Department of the Youth Authority.</p> <p>(2) "Communicable, contagious, or infectious disease" means any disease that is capable of being transmitted from person to person with or without contact and as established by the State Department of Health Services pursuant to Section 120130, and Section 2500 et seq. of Title 17 of the California Code of Regulations.</p> <p>(3) "Inmate or ward" means any person incarcerated within the jurisdiction of the Department of Corrections or the Department of the Youth Authority, with the exception of a person on parole.</p> <p>(4) "Institution" means any state prison, camp, center, office, or other facility under the jurisdiction of the Department of Corrections or the Department of the Youth Authority.</p> <p>(5) "Medical director," "chief of medical services," or "chief medical officer" means the medical officer, acting medical officer, medical director, or the physician designated by the department to act in that capacity, who is responsible for directing the medical treatment programs and medical services for all health services and services supporting the health services provided in the institution.</p> <p>(b) Each health care facility in the Department of Corrections and in the Department of the Youth Authority shall have a medical director in charge of the health care services of that facility who shall be a physician and surgeon licensed to practice in California and who shall be appointed by the directors of the departments. The medical director shall direct the medical treatment programs for all health services and services supporting the health services provided in the facility.</p> <p>(c) The medical director, chief of medical services, chief medical officer, or the physician designated by the department to act in that capacity, shall use every available means to ascertain the existence of, and to immediately investigate, all reported or suspected cases of any communicable, contagious, or infectious disease and to ascertain the source or sources of the infections and prevent the spread of the disease. In carrying out these investigations, the medical director, chief of medical services, chief medical officer, or the physician designated by the department to act in that capacity, is hereby invested with full powers of inspection, examination, and quarantine or isolation of all inmates or wards known to be, or reasonably suspected to be, infected with a communicable, contagious, or infectious disease.</p> <p>(d) The medical director, chief of medical services, chief medical officer, or the physician designated by the department to act in that capacity, shall order an inmate or ward to receive an examination or test, or may order an inmate or ward to receive treatment if the medical director, chief of medical services, chief medical officer, or the physician designated by the department to act in</p>

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	<p>that capacity, has reasonable suspicion that the inmate or ward has, has had, or has been exposed to a communicable, contagious, or infectious disease and the medical director, chief of medical services, chief medical officer, or the physician designated by the department to act in that capacity, has reasonable grounds to believe that it is necessary for the preservation and protection of staff and inmates or wards.</p> <p>(e) Notwithstanding Section 2600 or 2601 of the Penal Code, or any other provision of law, any inmate or ward who refuses to submit to an examination, test, or treatment for any communicable, contagious, or infectious disease or who refuses treatment for any communicable, contagious, or infectious disease, or who, after notice, violates, or refuses or neglects to conform to any rule, order, guideline, or regulation prescribed by the department with regard to communicable disease control shall be tested involuntarily and may be treated involuntarily. This inmate or ward shall be subject to disciplinary action as described in Title 15 of the California Code of Regulations.</p> <p>(f) This section shall not apply to HIV or AIDS. Testing, treatment, counseling, prevention, education, or other procedures dealing with HIV and AIDS shall be conducted as prescribed in Title 8 (commencing with Section 7500) of Part 3 of the Penal Code.</p> <p>(g) This section shall not apply to tuberculosis. Tuberculosis shall be addressed as prescribed in Title 8.7 (commencing with Section 7570) of the Penal Code.</p>
§ 1367.46	<p>Health care coverage: HIV testing.</p> <p>Every individual or group health care service plan contract that is issued, amended, or renewed on or after January 1, 2009, that covers hospital, medical, or surgery expenses shall provide coverage for human immunodeficiency virus (HIV) testing, regardless of whether the testing is related to a primary diagnosis.</p>
§1389.1	<p>Applications for coverage; HIV test prohibition</p> <p>The application [for health care service plan coverage] questions related to an applicant's health shall be based on medical information that is reasonable and necessary for medical underwriting purposes. The application shall include a prominently displayed notice that shall read:</p> <p>"California law prohibits an HIV test from being required or used by health care service plans as a condition of obtaining coverage."</p>
§1562.5	<p>Further training of licensees relating to HIV, AIDS, and tuberculosis</p> <p>(a) The director 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 four hours of training on the needs of residents who may be infected with the human immunodeficiency virus (HIV), and on basic information about tuberculosis. Administrators and program directors shall attend update training sessions every two years after satisfactorily completing the initial training to ensure that information received</p>

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	<p>on HIV and tuberculosis remains current. The training shall consist of three hours on HIV and one hour on tuberculosis.</p> <p>(b) The training shall consist of all of the following:</p> <ol style="list-style-type: none"> (1) Universal blood and body fluid precautions. (2) Basic AIDS and HIV information, including modes of transmission. (3) Legal protections for persons with HIV or AIDS. (4) Referral information to local government, community-based, and other organizations that provide social, support, or health services and social services to people with HIV or AIDS. (5) Information about the residential care needs of people living with HIV or AIDS, including nutritional needs. (6) Recognition of the signs and symptoms of tuberculosis. (7) Tuberculosis testing requirements for staff, volunteers, and residents. (8) Tuberculosis prevention. (9) Tuberculosis treatment. <p>(c) The department shall ensure compliance with this section. In the event of noncompliance, the director shall develop and implement a plan of correction requiring that the training take place within six months of the violation.</p> <p>(d) All administrators of adult residential and program directors of social rehabilitation facilities licensed on or before January 1, 1994, shall complete the training by December 31, 1994, and every two years thereafter. Newly employed administrators and program directors shall complete training within six months after commencing employment.</p> <p>(e) Eligible providers of training and study courses shall be limited to any of the following:</p> <ol style="list-style-type: none"> (1) County and city health departments. (2) American Lung Association affiliates. (3) Any agency with a contract to provide HIV, AIDS, or tuberculosis education with either the State Department of Health Services, or the federal Centers for Disease Control. (4) The California Association of AIDS Agencies. (5) Any providers approved by the State Department of Social Services for training of personnel employed in residential care facilities for the elderly, adult residential facilities, or residential care facilities for the chronically ill. <p>(f) Providers shall use HIV, AIDS, and tuberculosis materials produced, approved, or distributed by any of the following:</p> <ol style="list-style-type: none"> (1) The federal Centers for Disease Control. (2) The American Lung Association. (3) The University of California. (4) The California Association of AIDS Agencies. (5) The California AIDS Clearinghouse. (6) County and city health departments. <p>(g) In the event that an administrator or program director demonstrates to the department a significant difficulty in accessing training, the administrators and</p>

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	<p>program directors of these facilities shall have the option of fulfilling these training requirements through a study course consisting of written and/or video educational materials.</p> <p>(h) Successful completion of the training or study course by administrators and program directors and the biannual update described in this section shall be verified with the department during the annual review of the facility pursuant to subdivision (a) of Section 1534. Trained administrators and program directors shall disseminate the HIV, AIDS, and tuberculosis materials to facility personnel.</p>
§1603.1	<p>Required tests for HIV and viral hepatitis; Exceptions; Reports of AIDS cases and HIV and viral hepatitis infections to local health officer; Investigation by blood bank or plasma center; Contact with affected persons and notification of recipients</p> <p>a) Except as provided in this subdivision, no blood or blood components shall be used in vivo for humans in this state, unless the blood or blood components have been tested and found non-reactive for HIV or the blood or blood components are used for research or vaccination programs pursuant to an informed consent.</p> <p>Additional exceptions to the requirement of this subdivision are as follows:</p> <p>(1) Blood or blood components released for transfusion in emergency circumstances, as determined by the department.</p> <p>(2) Blood or blood components used for autologous purposes</p> <p>b) Blood banks and plasma centers shall make laboratory tests of all human whole blood and blood components received to detect the presence of viral hepatitis and HIV in the manner specified in Section 1603.3.</p> <p>c) A physician, hospital, or other health care provider shall report all AIDS cases, HIV infections, and viral hepatitis infections, including transfusion-associated cases or infections, to the local health officer with the information required, and within the timeframes established by the department, pursuant to Title 17 of the California Code of Regulations.</p> <p>d) Upon receipt of a report concerning any transfusion-associated hepatitis or transfusion-associated HIV or AIDS cases, the local health officer shall identify which blood bank or plasma center is the source of the infectious blood or blood components and shall report this fact to the blood bank or plasma center that issued the blood or blood components. The blood bank or plasma center shall undertake an investigation to determine the donor source of the infectious blood or blood components.</p> <p>e) Local health officials shall contact all persons who have confirmed cases of AIDS, as determined by a person responsible for the care and treatment of the person with AIDS, to suggest appropriate treatment alternatives and for the purposes of epidemiological studies and follow-up.</p> <p>k) A local health officer may disclose to a blood bank or plasma center, on a</p>

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	<p>confidential basis, whether blood or blood components previously transfused may have been donated by a person infected with HIV, in order to implement the blood bank's or plasma center's program to notify a recipient of blood or blood components that might have transmitted HIV. The blood bank or plasma center may not disclose information that would identify a donor to which this subdivision applies and shall destroy information communicated to it as authorized by this subdivision immediately after reviewing its records as necessary to implement this program. .</p>
§1603.3	<p>Notice to donors of HIV testing; Self-deferral; Notice of reactive result; Guidelines; Display of notice at blood banks and plasma centers; Regulations; Liability for disclosure to public health officer; Expungement of records</p> <p>a) Prior to a donation of blood or blood components, each donor shall be notified in writing of, and shall have signed a written statement confirming the notification of, all of the following:</p> <ol style="list-style-type: none"> (1) That the blood or blood components shall be tested for evidence of antibodies to HIV. (2) That the donor shall be notified of the test results in accordance with the requirements described in subdivision (c). (3) That the donor blood or blood component that is found to have the antibodies shall not be used for transfusion. (4) That blood or blood components shall not be donated for transfusion purposes by a person if the person may have reason to believe that he or she has been exposed to HIV or AIDS. (5) That the donor is required to complete a health screening questionnaire to assist in the determination as to whether he or she may have been exposed to HIV or AIDS. <p>b) A blood bank or plasma center shall incorporate voluntary means of self-deferral for donors. The means of self-deferral may include, but are not limited to, a form with check-off boxes specifying that the blood or blood components are for research or test purposes only and a telephone callback system for donors to use in order to inform the blood bank or plasma center that blood or blood components donated should not be used for transfusion. The blood bank or plasma center shall inform the donor, in a manner that is understandable to the donor, that the self-deferral process is available and should be used if the donor has reason to believe that he or she is infected with HIV. The blood bank or plasma center shall also inform the donor that it is a felony pursuant to Section 1621.5 to donate blood if the donor knows that he or she has a diagnosis of AIDS or knows that he or she has tested reactive to HIV.</p> <p>c) Blood or blood components from any donor initially found to have serologic evidence of antibodies to HIV shall be retested for confirmation. Only if a further test confirms the conclusion of the earlier test shall the donor be notified of a reactive result by the blood bank or plasma center.</p> <p>d) Each blood bank or plasma center operating in California shall prominently display at each of its collection sites a notice that provides the addresses and</p>

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	<p>telephone numbers of sites, within the proximate area of the blood bank or plasma center, where anonymous HIV antibody testing provided pursuant to Chapter 3 (commencing with Section 120885) of Part 4 of Division 105 may be administered without charge.</p> <p>e) The department may promulgate any additional regulations it deems necessary to enhance the safety of donated blood and blood components. The department may also promulgate regulations it deems necessary to safeguard the consistency and accuracy of HIV test results by requiring any confirmatory testing the department deems appropriate for the particular types of HIV tests that have yielded "reactive," "positive," "indeterminate," or other similarly labeled results.</p>
§1603.4	<p>Exceptions to liability for disclosure of test results</p> <p>No public entity or any private blood bank or plasma center shall be liable for an inadvertent, accidental, or otherwise unintentional disclosure of the results of an HIV test. Neither the department nor any blood bank or plasma center, including a blood bank or plasma center owned or operated by a public entity, or local health officer shall be held liable for any damage resulting from the notification of test results.</p>
§1644	<p>(a) For purposes of this chapter, "donor," "person," "tissue," "transplantation," and "department" shall have the meaning as defined for those terms in Section 1635.</p> <p>(b) For purposes of this chapter, "HIV" shall mean human immunodeficiency virus.</p>
§1644.5	<p>Infectious disease screening</p> <p>(a) Except as provided in subdivision (c) or (d), no tissues shall be transferred into the body of another person by means of transplantation, unless the donor of the tissues has been screened and found nonreactive by laboratory tests for evidence of infection with human immunodeficiency virus (HIV), agents of viral hepatitis (HBV and HCV), and syphilis. For tissues that are rich in viable leukocytes, the tissue shall be tested for evidence of infection with human T lymphotropic virus (HTLV) and found nonreactive. The department may adopt regulations requiring additional screening tests of donors or tissues when, in the opinion of the department, the action is necessary for the protection of the public, donors, or recipients.</p> <p>(b) Notwithstanding subdivision (a), infectious disease screening of blood and blood products shall be carried out solely in accordance with Article 2 (commencing with Section 1602.5) of Chapter 4.</p> <p>(c) All donors of sperm shall be screened and found nonreactive as required under subdivision (a), except in the following instances:</p> <p>(1) A recipient of sperm, from a sperm donor known to the recipient, may waive a second or other repeat testing of that donor if the recipient is informed of the requirements for testing donors under this section and signs a written</p>

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	<p>waiver.</p> <p>(2) A recipient of sperm may consent to therapeutic insemination of sperm or use of sperm in other advanced reproductive technologies even if the sperm donor is found reactive for hepatitis B, hepatitis C, syphilis, HIV or HTLV if the sperm donor is the spouse of, partner of, or designated donor for that recipient. The physician providing insemination or advanced reproductive technology services shall advise the donor and recipient of the potential medical risks associated with receiving sperm from a reactive donor. The donor and the recipient shall sign a document affirming that each comprehends the potential medical risks of using sperm from a reactive donor for the proposed procedure and that each consents to it. Copies of the document shall be placed in the medical records of the donor and the recipient.</p> <p>(3) (A) Sperm whose donor has tested reactive for syphilis may be used for the purposes of insemination or advanced reproductive technology only after the donor has been treated for syphilis. Sperm whose donor has tested reactive for hepatitis B may be used for the purposes of insemination or advanced reproductive technology only after the recipient has been vaccinated against hepatitis B.</p> <p>(B) (i) Sperm whose donor has tested reactive for HIV or HTLV may be used for the purposes of insemination or advanced reproductive technology for a recipient testing negative for HIV or HTLV only after the donor's sperm has been effectively processed to minimize the infectiousness of the sperm for that specific donation and where informed and mutual consent has occurred.</p> <p>(ii) Not later than January 1, 2014, the department shall adopt regulations regulating facilities that perform sperm processing, pursuant to this subparagraph, that prescribe standards for the handling and storage of sperm samples of carriers of HIV, HTLV, or any other virus as deemed appropriate by the department. The department may propose to adopt, as initial regulations, the recommendations made within the "Guidelines for Reducing Risk of Viral Transmission During Fertility Treatment" as published by the American Society for Reproductive Medicine. Notice of the department's proposed adoption of the regulations shall be posted on the department's Internet Web site for at least 45 days. Public comment shall be accepted by the department for at least 30 days after the conclusion of the 45-day posting period. If a member of the public requests a public hearing during the 30-day comment period, the hearing shall be held prior to the adoption of the regulations. If no member of the public requests a public hearing, the regulations shall be deemed adopted at the conclusion of the 30-day comment period. Comments received shall be considered prior to the adoption of the final initial regulations. The department may modify any guidance published by the American Society for Reproductive Medicine. Adoption of initial regulations by the department pursuant to this subdivision shall not be subject to the rulemaking requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code and written responses to public comments shall not be required. Updates to the regulations shall be adopted pursuant to the same process. Until the department adopts these regulations, facilities that perform sperm processing pursuant to this section shall follow facility and sperm processing guidelines for the reduction of viral transmission developed by the American Society for Reproductive Medicine. Nothing in this section shall prevent the department from monitoring and inspecting facilities that process</p>

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	<p>sperm to ensure adherence to the regulations, or, until regulations are adopted, to the guidelines set forth by the American Society for Reproductive Medicine.</p> <p>(iii) Prior to insemination or other advanced reproductive technology services, the physician providing the services shall inform the recipient of sperm from a spouse, partner, or designated donor who has tested reactive for HIV or HTLV of all of the following:</p> <p>(I) That sperm processing may not eliminate all of the risks of HIV or HTLV transmission.</p> <p>(II) That the sperm may be tested to determine whether or not it is reactive for HIV or HTLV.</p> <p>(III) That the recipient must provide documentation to the physician providing insemination or advanced reproductive technology services prior to treatment that she has established an ongoing relationship with another physician to provide for her medical care during and after completion of fertility services.</p> <p>(IV) The recommendations made within the "Guidelines for Reducing the Risk of Viral Transmission During Fertility Treatment" published by the American Society for Reproductive Medicine regarding followup testing for HIV and HTLV after use of sperm from an HIV or HTLV reactive donor and have the recommendations regarding followup testing be documented in the recipient's medical record.</p> <p>(iv) The physician providing insemination or advanced reproductive technology services shall also verify, and document in the recipient's medical record, that the donor of sperm who tests reactive for HIV or HTLV is under the care of a physician managing the HIV or HTLV.</p> <p>(v) The physician providing insemination or advanced reproductive technology services shall recommend to the physician who will be providing ongoing care to the recipient recommended followup testing for HIV and HTLV according to the "Guidelines for Reducing the Risk of Viral Transmission During Fertility Treatment" published by the American Society for Reproductive Medicine, which shall be documented in the recipient's medical record.</p> <p>(vi) In the event that the recipient becomes HIV or HTLV positive, the physician assuming ongoing care of the recipient shall treat or provide information regarding referral to a physician who can provide ongoing treatment of the HIV or HTLV.</p> <p>(4) The penalties of Section 1621.5 shall not apply to a sperm donor covered under this subdivision.</p> <p>(d) Subdivision (a) shall not apply to the transplantation of tissue from a donor who has not been tested or, with the exception of HIV and HTLV, has been found reactive for the infectious diseases listed in subdivision (a) or for which the department has, by regulation, required additional screening tests, if both of the following conditions are satisfied:</p> <p>(1) The physician and surgeon performing the transplantation has determined any one or more of the following:</p> <p>(A) Without the transplantation the intended recipient will most likely die during the period of time necessary to obtain other tissue or to conduct the required tests.</p> <p>(B) The intended recipient already is diagnosed with the infectious disease</p>

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	<p>for which the donor has tested positive.</p> <p>(C) The symptoms from the infectious disease for which the donor has tested positive will most likely not appear during the intended recipient's likely lifespan after transplantation with the tissue or may be treated prophylactically if they do appear.</p> <p>(2) Consent for the use of the tissue has been obtained from the recipient, if possible, or if not possible, from a member of the recipient's family, or the recipient's legal guardian. For purposes of this section, "family" shall mean spouse, adult son or daughter, either parent, adult brother or sister, or grandparent.</p> <p>(e) Human breast milk from donors who test reactive for agents of viral hepatitis (HBV and HCV), HTLV, HIV, or syphilis shall not be used for deposit into a milk bank for human ingestion in California.</p>
§1797.188	<p>Exposure to reportable disease; Notification where patient transferred to health facility</p> <p>(b) All prehospital emergency medical care personnel, whether volunteers, partly paid, or fully paid who have provided emergency medical or rescue services and have been exposed to a person afflicted with a disease or condition listed as reportable, which can, as determined by the county health officer, be transmitted through oral contact or secretions of the body, including blood, shall be notified that they have been exposed to the disease and should contact the county health officer if all the following are satisfied:</p> <p>(1) The prehospital emergency medical care person, who has rendered emergency medical or rescue services and has been exposed to a person afflicted with a reportable disease or condition, provides the health facility with his or her name and telephone number at the time the patient is transferred from that prehospital emergency medical care person to the admitting health facility; or the party transporting the person afflicted with the reportable disease or condition provides that health facility with the name and telephone number of the prehospital emergency medical care person who provided the emergency medical or rescue services.</p> <p>(2) The health facility reports the name and telephone number of the prehospital emergency medical care person to the county health officer upon determining that the person to whom the prehospital emergency medical care person provided the emergency medical or rescue services is diagnosed as being afflicted with a reportable disease or condition.</p> <p>(c) The county health officer shall immediately notify the prehospital emergency medical care person who has provided emergency medical or rescue services and has been exposed to a person afflicted with a disease or condition listed as reportable, which can, as determined by the county health officer, be transmitted through oral contact or secretions of the body, including blood, upon receiving the report from a health facility pursuant to paragraph (1) of subdivision (b). The county health officer shall not disclose the name of the patient or other identifying characteristics to the prehospital emergency medical care person.</p> <p>Nothing in this section shall be construed to authorize the further disclosure of confidential medical information by the health facility or any prehospital</p>

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	<p>emergency medical care personnel described in this section except as otherwise authorized by law.</p> <p>In the event of the demise of the person afflicted with the reportable disease or condition, the health facility or county health officer shall notify the funeral director, charged with removing the decedent from the health facility, of the reportable disease prior to the release of the decedent from the health facility to the funeral director.</p>
§1797.189	<p>Exposure to reportable disease; Notification where patient transferred to chief medical examiner-coroner</p> <p>(b) Any prehospital emergency medical care personnel, whether volunteers, partly paid, or fully paid who have provided emergency medical or rescue services and have been exposed to a person afflicted with a disease or condition listed as reportable, that can, as determined by the county health officer, be transmitted through oral contact or secretions of the body, including blood, shall be notified that they have been exposed to the disease and should contact the county health officer if all of the following conditions are met:</p> <p>(1) The prehospital emergency medical care person, who has rendered emergency medical or rescue services and has been exposed to a person afflicted with a reportable disease or condition, provides the chief medical examiner-coroner with his or her name and telephone number at the time the patient is transferred from that prehospital medical care person to the chief medical examiner-coroner; or the party transporting the person afflicted with the reportable disease or condition provides that chief medical examiner-coroner with the name and telephone number of the prehospital emergency medical care person who provided the emergency medical or rescue services.</p> <p>(2) The chief medical examiner-coroner reports the name and telephone number of the prehospital emergency medical care person to the county health officer upon determining that the person to whom the prehospital emergency medical care person provided the emergency medical or rescue services is diagnosed as being afflicted with a reportable disease or condition.</p> <p>(c) The county health officer shall immediately notify the prehospital emergency medical care person who has provided emergency medical or rescue services and has been exposed to a person afflicted with a disease or condition listed as reportable, that can, as determined by the county health officer, be transmitted through oral contact or secretions of the body, including blood, upon receiving the report from a health facility pursuant to paragraph (1) of subdivision (b). The county health officer shall not disclose the name of the patient or other identifying characteristics to the prehospital emergency medical care person.</p> <p>Nothing in this section shall be construed to authorize the further disclosure of confidential medical information by the chief medical examiner-coroner or any of the prehospital emergency medical care personnel described in this section except as otherwise authorized by law.</p> <p>The chief medical examiner-coroner, or the county health officer shall notify the funeral director, charged with removing or receiving the decedent afflicted with a reportable disease or condition from the chief medical examiner-coroner,</p>

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	of the reportable disease prior to the release of the decedent from the chief medical examiner-coroner to the funeral director.
§7152.5	<p>Search for document of gift or evidence of refusal to make gift</p> <p>(a) If, at or near the time of death of a patient, there is no medical record that the patient has made or refused to make an anatomical gift, the hospital shall comply with the protocol developed pursuant to Section 7184.</p> <p>(b) The following persons shall make a reasonable search for a document of gift or other information identifying the bearer as a donor or as an individual who has refused to make an anatomical gift:</p> <p>(1) A law enforcement officer finding an individual who the officer believes is dead or near death.</p> <p>(2) A hospital, upon the admission of an individual at or near the time of death, if there is not immediately available any other source of that information.</p> <p>(3) Ambulance or emergency medical personnel, upon providing emergency medical services to an individual, when it appears that death of that individual may be imminent. This requirement shall be secondary to the requirement that ambulance or emergency medical personnel provide emergency medical services to the patient.</p> <p>(c) If a document of gift or evidence of refusal to make an anatomical gift is located by the search required by paragraph (1) of subdivision (b), and the individual or body to whom it relates is taken to a hospital, the hospital shall be notified of the contents and the document or other evidence shall be sent to the hospital.</p> <p>(d) If, at or near the time of death of a patient, a hospital knows that an anatomical gift has been made pursuant to subdivision (a) of Section 7151 or a release and removal of a part has been permitted pursuant to Section 7151.5, or that a patient or an individual identified as in transit to the hospital is a donor, the hospital shall notify the donee if one is named and known to the hospital; if not, it shall notify an appropriate procurement organization. The hospital shall cooperate in the implementation of the anatomical gift or release and removal of a part.</p> <p>(e) A person who fails to discharge the duties imposed by this section is not subject to criminal or civil liability but is subject to appropriate administrative sanctions.</p>
§7155.5	<p>Authorized examination; Immunity from liability</p> <p>An anatomical gift authorizes any reasonable examination necessary to assure medical acceptability of the gift for the purposes intended. All donors shall be screened for infectious diseases, including human immunodeficiency virus (HIV) antibody testing, pursuant to regulations adopted by the State Department of Health Services.</p>

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§11757.59	<p>Use of funds; Selection of counties to receive funds</p> <p>a) Funds distributed under this chapter shall be used by counties to fund residential and nonresidential alcohol and other drug treatment programs for pregnant women, postpartum women, and their children and to fund other support services directed at bringing pregnant and postpartum women into treatment and caring for alcohol and other drug exposed infants. Funds may also be used to provide case management services to alcohol and other drug abusing women and their children and special recruitment, training, and support services for foster care parents of substance exposed infants.</p> <p>b) In carrying out its responsibilities under this chapter, the office may include in its guidelines the special needs of pregnant women and postpartum women who are chemically dependent and who are in need of treatment services. These special needs include, but are not limited to, the following:</p> <p>(1) Provision for medical services, which may include, but not be limited to, the following:</p> <p>(F) Testing and counseling relating to AIDS.</p>
§120260	<p>Legislative findings</p> <p>(a) The Legislature finds and declares all of the following:</p> <p>(1) Early knowledge of infection with communicable disease is important in order to permit exposed persons to make informed health care decisions as well as to take measures to reduce the likelihood of transmitting the infection to others.</p> <p>(2) Individual health care providers, agents and employees of health care facilities and individual health care providers, and first responders, including police, firefighters, rescue personnel, and other persons who provide the first response to emergencies, frequently come into contact with the blood and other potentially infectious materials of individuals whose communicable disease infection status is not known.</p> <p>(3) Even if these exposed individuals use universal infection control precautions to prevent transmission of communicable diseases, there will be occasions when they experience significant exposure to the blood or other potentially infectious materials of patients.</p> <p>(b) Therefore, it is the intent of the Legislature to provide a narrow exposure notification and information mechanism to permit individual health care providers, the employees or contracted agents of health care facilities and individual health care providers, and first responders, who have experienced a significant exposure to the blood or other potentially infectious materials of a patient, to learn of the communicable disease infection status of the patient.</p>
§120261	<p>Definitions</p> <p>For the purposes of this chapter, the following definitions apply:</p> <p>(a) "Attending physician of the source patient" means any physician and surgeon licensed pursuant to Chapter 5 (commencing with Section 2000) of</p>

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	<p>Division 2 of the Business and Professions Code and any person licensed pursuant to the Osteopathic Initiative Act, who provides health care services to the source patient. Notwithstanding any other provision of this subdivision to the contrary, the attending physician of the source patient shall include any of the following persons:</p> <ul style="list-style-type: none"> (1) The private physician of the source patient. (2) The physician primarily responsible for the patient who is undergoing inpatient treatment in a hospital. (3) A registered nurse or licensed nurse practitioner who has been designated by the attending physician of the source patient. <p>(b) "Available blood or patient sample" means blood or other tissue or material that was legally obtained in the course of providing health care services, and is in the possession of the physician or other health care provider of the source patient prior to the release of the source patient from the physician's or health care provider's facility.</p> <p>(c) "Certifying physician" means any physician consulted by the exposed individual for the exposure incident. A certifying physician shall have demonstrated competency and understanding of the then applicable guidelines or standards of the Division of Occupational Safety and Health.</p> <p>(d) "Communicable disease" means any disease that was transferable through the exposure incident, as determined by the certifying physician.</p> <p>(e) "Exposed individual" means any individual health care provider, first responder, or any other person, including, but not limited to, any employee, volunteer, or contracted agent of any health care provider, who is exposed, within the scope of his or her employment, to the blood or other potentially infectious materials of a source patient.</p> <p>(f) "Health care provider" means any person licensed or certified pursuant to Division 2 (commencing with Section 500) of the Business and Professions Code, any person licensed pursuant to the Osteopathic Initiative Act or the Chiropractic Initiative Act, any person certified pursuant to Division 2.5 (commencing with Section 1797), any clinic, health dispensary, or health facility licensed or exempt from licensure pursuant to Division 2 (commencing with Section 1200), any employee, volunteer, or contracted agent of any group practice prepayment health care service plan regulated pursuant to the Knox-Keene Health Care Service Plan Act of 1975 (Chapter 2.2 (commencing with Section 1340) of Division 2), and any professional student of one of the clinics, health dispensaries, or health care facilities or health care providers described in this subdivision.</p> <p>(g) "First responder" means a police officer, firefighter, rescue worker, or any other person who provides emergency response, first aid care, or other medically related assistance either in the course of the person's occupational duties or as a volunteer.</p> <p>(h) "Other potentially infectious materials" means those body fluids identified</p>

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	<p>by the Division of Occupational Safety and Health as potentially capable of transmitting a communicable disease.</p> <p>(i) "Significant exposure" means direct contact with blood or other potentially infectious materials of a patient in a manner that, according to the then applicable guidelines of the Division of Occupational Safety and Health, is capable of transmitting a communicable disease.</p> <p>(j) "Source patient" means any person receiving health care services whose blood or other potentially infectious material has been the source of a significant exposure to an exposed individual.</p>
§120262	<p>Testing of source patient; Notification to exposed individual</p> <p>Notwithstanding Chapter 7 (commencing with Section 120975) or any other provision of law, the blood or other tissue or material of a source patient may be tested, and an exposed individual may be informed whether the patient has tested positive or negative for a communicable disease if the exposed individual and the health care facility, if any, have substantially complied with the then applicable guidelines of the Division of Occupational Safety and Health and the State Department of Health Services and if the following procedure is followed:</p> <p>(a)(1) Whenever a person becomes an exposed individual by experiencing an exposure to the blood or other potentially infectious material of a patient during the course of rendering health care-related services or occupational services, the exposed individual may request an evaluation of the exposure by a physician to determine if it is a significant exposure, as defined in subdivision (h) of Section 120261. No physician or other exposed individual shall certify his or her own significant exposure. However, an employing physician may certify the exposure of one of his or her employees. Requests for certification shall be made in writing within 72 hours of the exposure.</p> <p>(2) A written certification by a physician of the significance of the exposure shall be obtained within 72 hours of the request. The certification shall include the nature and extent of the exposure.</p> <p>(b)(1) The exposed individual shall be counseled regarding the likelihood of transmission, the limitations of the testing performed, the need for followup testing, and the procedures that the exposed individual must follow regardless of whether the source patient has tested positive or negative for a communicable disease. The exposed individual may be tested in accordance with the then applicable guidelines or standards of the Division of Occupational Safety and Health. The result of this test shall be confirmed as negative before available blood or other patient samples of the source patient may be tested for evidence of infection to a communicable disease, without the consent of the source patient pursuant to subdivision (d).</p> <p>(2) Within 72 hours of certifying the exposure as significant, the certifying physician shall provide written certification to an attending physician of the source patient that a significant exposure to an exposed individual has occurred, and shall request information on whether the source patient has</p>

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	<p>tested positive or negative for a communicable disease, and the availability of blood or other patient samples. An attending physician shall respond to the request for information within three working days.</p> <p>(c) If test results of the source patient are already known to be positive for a communicable disease then, except as provided in subdivisions (b) and (c) of Section 121010, when the exposed individual is a health care provider or an employee or agent of the health care provider of the source patient, an attending physician and surgeon of the source patient shall attempt to obtain the consent of the source patient to disclose to the exposed the testing results of the source patient regarding communicable diseases. If the source patient cannot be contacted or refuses to consent to the disclosure, then the exposed individual may be informed of the test results regarding communicable diseases of the source patient by an attending physician of the source patient as soon as possible after the exposure has been certified as significant, notwithstanding Section 120980 or any other provision of law.</p> <p>(d) If the communicable disease status of the source patient is unknown to the certifying physician or an attending physician, if blood or other patient samples are available, and if the exposed individual has tested negative on a baseline test for communicable diseases, the source patient shall be given the opportunity to give informed consent to a test for communicable diseases in accordance with the following:</p> <p>(1) Within 72 hours after receiving a written certification of significant exposure, an attending physician of the source patient shall do all of the following:</p> <p>(A) Make a good faith effort to notify the source patient or the authorized legal representative of the source patient about the significant exposure. A good faith effort to notify includes, but is not limited to, a documented attempt to locate the source patient by telephone or by first-class mail with a certificate of mailing. An attempt to locate the source patient and the results of that attempt shall be documented in the medical record of the source patient. An inability to contact the source patient, or legal representative of the source patient, after a good faith effort to do so as provided in this subdivision, shall constitute a refusal of consent pursuant to paragraph (2). An inability of the source patient to provide informed consent shall constitute a refusal of consent pursuant to paragraph (2), provided all of the following conditions are met:</p> <p>(i) The source patient has no authorized legal representative.</p> <p>(ii) The source patient is incapable of giving consent.</p> <p>(iii) In the opinion of the attending physician, it is likely that the source patient will be unable to grant informed consent within the 72-hour period during which the physician is required to respond pursuant to paragraph (1).</p> <p>(B) Attempt to obtain the voluntary informed consent of the source patient or the authorized legal representative of the source patient to perform a test for a communicable disease, on the source patient or on any available blood or patient sample of the source patient. The voluntary informed consent shall be in writing. The source patient shall have the option not to be informed of the test result. An exposed individual shall be prohibited from attempting to obtain directly informed consent for testing for communicable diseases from the source patient.</p>

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	<p>(C) Provide the source patient with medically appropriate pretest counseling and refer the source patient to appropriate posttest counseling and followup, if necessary. The source patient shall be offered medically appropriate counseling whether or not he or she consents to testing.</p> <p>(2) If the source patient or the authorized legal representative of the source patient refuses to consent to test for a communicable disease after a documented effort has been made to obtain consent, any available blood or patient sample of the source patient may be tested. The source patient or authorized legal representative of the source patient shall be informed that an available blood sample or other tissue or material will be tested despite his or her refusal, and that the exposed individual shall be informed of the test results regarding communicable diseases.</p> <p>(3) If the informed consent of the source patient cannot be obtained because the source patient is deceased, consent to perform a test for a communicable disease on any blood or patient sample of the source patient legally obtained in the course of providing health care services at the time of the exposure event shall be deemed granted.</p> <p>(4) A source patient or the authorized legal representative of a source patient shall be advised that he or she shall be informed of the results of the test for communicable diseases only if he or she wishes to be so informed. If a patient refuses to provide informed consent to testing for communicable diseases and refuses to learn the results of the testing, he or she shall sign a form documenting this refusal. The source patient's refusal to sign this form shall be construed to be a refusal to be informed of the test results regarding communicable diseases. Test results for communicable diseases shall only be placed in the medical record when the patient has agreed in writing to be informed of the results.</p> <p>(5) Notwithstanding any other provision of law, if the source patient or authorized legal representative of a source patient refuses to be informed of the results of the test, the test results regarding communicable diseases of that source patient shall only be provided to the exposed individual in accordance with the then applicable regulations established by the Division of Occupational Safety and Health.</p> <p>(6) The source patient's identity shall be encoded on the communicable disease test result record.</p> <p>(e) If an exposed individual is informed of the status of a source patient with regard to a communicable disease pursuant to this section, the exposed individual shall be informed that he or she is subject to existing confidentiality protections for any identifying information about the communicable disease test results, and that medical information regarding the communicable disease status of the source patient shall be kept confidential and may not be further disclosed, except as otherwise authorized by law. The exposed individual shall be informed of the penalties for which he or she would be personally liable for violation of Section 120980.</p> <p>(f) The costs for the test and counseling for communicable diseases of the exposed individual, or the source patient, or both, shall be borne by the employer of the exposed individual, if any. An employer who directs and controls the exposed individual shall provide the postexposure evaluation and</p>

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	<p>followup required by the California Division of Occupational Safety and Health as well as the testing and counseling for source patients required under this chapter. If an exposed individual is a volunteer or a student, then the health care provider or first responder that assigned a task to the volunteer or student may pay for the costs of testing and counseling as if that volunteer or student were an employee. If an exposed individual, who is not an employee of a health facility or of another health care provider, chooses to obtain postexposure evaluation or followup counseling, or both, or treatment, he or she shall be financially responsible for the costs thereof and shall be responsible for the costs of the testing and counseling for the source patient.</p> <p>(g) Nothing in this section authorizes the disclosure of the source patient's identity.</p> <p>(h) Nothing in this section shall authorize a health care provider to draw blood or other body fluids except as otherwise authorized by law.</p> <p>(i) The provisions of this section are cumulative only and shall not preclude testing of source patients for a communicable disease, as authorized by any other provision of law.</p> <p>(j) Except as otherwise provided under this section, all confidentiality requirements regarding medical records that are provided for under existing law apply to this section.</p>
§120291	<p>Felony for specific intent to infect</p> <p>(a) Any person who exposes another to the human immunodeficiency virus (HIV) by engaging in unprotected sexual activity 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.</p> <p>(b) As used in this section, the following definitions shall apply:</p> <p>(1) "Sexual activity" means insertive vaginal or anal intercourse on the part of an infected male, receptive consensual vaginal intercourse on the part of an infected woman with a male partner, or receptive consensual anal intercourse on the part of an infected man or woman with a male partner.</p> <p>(2) "Unprotected sexual activity" means sexual activity without the use of a condom.</p> <p>(c)(1) When alleging a violation of subdivision (a), the prosecuting attorney or grand jury shall substitute a pseudonym for the true name of the victim involved. The actual name and other identifying characteristics of the victim shall be revealed to the court only in camera, and the court shall seal that information from further revelation, except to defense counsel as part of discovery.</p>

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	<p>(2) All court decisions, orders, petitions, and other documents, including motions and papers filed by the parties, shall be worded so as to protect the name or other identifying characteristics of the victim from public revelation.</p> <p>(3) Unless the victim requests otherwise, a court in which a violation of this section is filed shall, at the first opportunity, issue an order that the parties, their counsel and other agents, court staff, and all other persons subject to the jurisdiction of the court shall make no public revelation of the name or any other identifying characteristics of the victim.</p> <p>(4) As used in this subdivision, "identifying characteristics" includes, but is not limited to, name or any part thereof, address or any part thereof, city or unincorporated area of residence, age, marital status, relationship to defendant, and race or ethnic background.</p>
§120292	<p>Court order for disclosure relating to HIV</p> <p>a) Notwithstanding Chapter 7 (commencing with Section 120975) and Chapter 8 (commencing with Section 121025) of Part 4, identifying information and other records of the diagnosis, prognosis, testing, or treatment of any person relating to the human immunodeficiency virus (HIV) shall be disclosed in a criminal investigation for a violation of Section 120291 if authorized by an order of a court of competent jurisdiction granted after application showing good cause therefor. Any order of the court shall be issued in accordance with the following conditions:</p> <p>(1) An order shall not be based on the sexual orientation of the defendant.</p> <p>(2) In deciding whether to issue an order, 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. Upon the issuance of an order of this nature, the court, in determining the extent to which any disclosure of all or any part of any record is necessary, shall impose safeguards determined appropriate by the court against unauthorized disclosure. However, the court shall not order disclosure under this paragraph for any purpose other than a proceeding under this section. Any order for disclosure under this subdivision shall limit disclosure to those who need the information for the proceeding, and shall direct those to whom disclosure is made to make no further disclosure without permission of the court. The court shall grant permission for further disclosure when necessary for a proceeding under this section. Any disclosure in violation of an order issued under this section shall be remedied or punished as provided in Section 120980.</p> <p>b) Nothing in this section is intended to compel the testing to determine the HIV status of any victim of an alleged crime or crimes.</p> <p>c) Nothing in this section is intended to restrict or eliminate the anonymous AIDS testing programs provided for in Sections 120885 to 120895, inclusive. Identifying characteristics of persons who submit to that 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.</p>

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§120775	<p>"AIDS"; "Human immunodeficiency virus" or "HIV"; "HIV test"</p> <p>As used in this code:</p> <p>(a) "AIDS" means acquired immune deficiency syndrome.</p> <p>(b) "Human immunodeficiency virus" or "HIV" means the etiologic virus of AIDS.</p> <p>(c) "HIV test" means any clinical test, laboratory or otherwise, used to identify HIV, a component of HIV, or antibodies or antigens to HIV.</p>
§120820	<p>Confidentiality of personal data; Protective orders</p> <p>(a) Personal data in any investigations, reports, and information relating thereto shall be kept confidential and be afforded protections provided by Section 100330, except as provided by Section 1603.1 or 1603.3.</p> <p>(b) If patient-identifying information is subpoenaed from the department, the department shall seek and the court shall issue a protective order keeping this information confidential. The court order may require production, but limit the use and disclosure of, records, require production with names and identifying information deleted, provide sanctions for misuse of records or set forth other methods for assuring confidentiality.</p>
§120846	<p>Sexually transmitted diseases: HIV and AIDS: counseling.</p> <p>(a) It is the intent of the Legislature to increase the capacity of HIV test sites to screen more individuals by streamlining test site services.</p> <p>(b) Publicly funded HIV test sites shall be permitted to do all of the following:</p> <p>(1) Advise a person who has been tested before and is following appropriate public health risk reduction measures that the person does not need to receive further education services. This paragraph shall not apply to a person who engages in high-risk behaviors and is not following appropriate risk reduction measures.</p> <p>(2) Determine whether a person should be allowed to self-administer any data collection form required by the department.</p> <p>(3) As appropriate, provide prevention education through video, small group, individual interaction, or other methods and in small groups or couples.</p>
§120860	<p>AIDS program for women and children; Targeted programs</p> <p>(a) The department shall, in coordination with the State Department of Alcohol and Drug Programs, develop a plan that assesses the need for, a program of acquired immune deficiency syndrome (AIDS) primary prevention, health education, testing, and counseling, specifically designed for women and children, that shall be integrated, as the department deems appropriate, into the following programs:</p> <p>(1) The California Childrens Services Program provided for pursuant to Article 5 (commencing with Section 123800) of Chapter 3 of Part 2 of Division 106.</p> <p>(2) Programs under the Maternal and Child Health Branch of the department.</p>

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	<p>(3) The Child Health Disability Prevention Program provided for pursuant to Article 6 (commencing with Section 124025) of Chapter 3 of Part 2 of Division 106.</p> <p>(4) The Genetic Disease Program, provided for pursuant to Sections 125000 and 125005.</p> <p>(5) The Family Planning Programs, provided for pursuant to Chapter 8.5 (commencing with Section 14500) of Part 3 of Division 9 of the Welfare and Institutions Code.</p> <p>(6) The Rural and Community Health Clinics Program.</p> <p>(7) The County Health Services Program, provided for pursuant to Part 4.5 (commencing with Section 16700) of Division 9 of the Welfare and Institutions Code.</p> <p>(8) The Sexually Transmitted Disease Program.</p> <p>(9) Programs administered by the State Department of Alcohol and Drug Programs.</p> <p>(b) The AIDS-related services that shall be addressed in the plan specified in this section shall include, but not be limited to, all of the following:</p> <p>(1) A variety of educational materials that are appropriate to the cultural background and educational level of the program clientele.</p> <p>(2) The availability of confidential HIV antibody testing and counseling either onsite or by referral.</p> <p>(c) Pursuant to subdivision (a), the plan shall include a method to provide the educational materials specified in subdivision (b) and appropriate AIDS-related training programs for those persons who provide direct services to women and children receiving services under the programs specified in this section.</p> <p>(d) In order that the AIDS-related services plan provided through the programs specified in this section be as effective as possible, the department shall ensure that the educational materials and training programs provided for each program specified in subdivision (a) are developed in coordination with, and with input from, each of the respective programs.</p> <p>(e) Nothing in this section shall preclude the department from incorporating the plan requirements into the department's annual state AIDS plan, or any other reporting document relating to AIDS deemed appropriate by the department.</p>
§120871	<p>Community-based training programs for counselors for publicly funded HIV testing programs</p> <p>a) The department shall authorize the establishment of training programs throughout the state for counselors for publicly funded HIV testing programs. These training programs shall be conducted by community-based, nonprofit organizations with demonstrated expertise in providing free, anonymous, or confidential HIV testing services. The programs may be offered at flexible times, so as to facilitate the training of volunteer and part-time counselors.</p>

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	<p>b) All participating community-based organizations shall follow curriculum content and design approved by the department for training programs administered pursuant to this section.</p> <p>c) All counselors trained in programs authorized by this section shall be subject to existing state and local testing and successful completion of training.</p> <p>d) All costs associated with training programs administered pursuant to this section shall be absorbed by participating community-based organizations. This section shall not be construed to require or prohibit the funding of any training program administered pursuant to this section by the department, or by any local government administering a training program for HIV counselors.</p> <p>e) This section shall not be construed to prohibit or otherwise restrict community-based organizations from participating in existing local training programs.</p>
§120875	<p>Provision of information to school districts</p> <p>The State Department of Education shall provide information to school districts on acquired immune deficiency syndrome (AIDS), on AIDS-related conditions, and on Hepatitis B. This information shall include, but not be limited to, any appropriate methods school employees may employ to prevent exposure to AIDS and Hepatitis B, including information concerning the availability of a vaccine to prevent contraction of Hepatitis B, and that the cost of vaccination may be covered by the health plan benefits of the employees. This information shall be compiled and updated annually, or if there is new information, more frequently, by the State Department of Education in conjunction with the department and in consultation with the California Conference of Local Health Officers. In order to reduce costs, this information may be included as an insert with other regular mailings to the extent practicable, and the information required to be provided on Hepatitis B shall be provided in conjunction with the information required to be provided on AIDS.</p>
§120880	<p>Provision of information to district employees</p> <p>School districts shall inform their employees annually, or if there is new information, more frequently, of the information compiled by the State Department of Education pursuant to Section 120875.</p>
§120885	<p>Legislative findings and declarations</p> <p>The Legislature finds and declares it is of great benefit to the public health and essential to the protection of safe blood and blood components available for transfusion to provide testing for the presence of antibodies to the probable causative agent of acquired immune deficiency syndrome (AIDS) as a function separate from the donation of blood or blood components.</p>
§120890	<p>Designation of counties for alternative test sites</p>

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	<p>The director shall, in order to protect the public health and in order to make blood and blood components safe for transfusion, designate counties that shall establish alternative testing sites, within the funds available, pursuant to this section and Sections 120885 and 120895. When designating a county pursuant to this section, the director may consider whether the county contains a permanent operational blood bank. All alternative test sites, established pursuant to this section and Sections 120885 and 120895, shall be under the supervision of a physician and surgeon or be a clinic or health facility licensed by the department.</p>
§120895	<p>Duties of designated counties; Reimbursement for services</p> <p>(a) Each county, designated by the director, shall make the test available within its jurisdiction without charge, in an accessible manner and the tests shall be made available by the county on an anonymous basis through use of a coded system with no linking of individual identity with the test request or results. The number and location of sites in each county designated by the director shall be approved by the director. The test shall be made available by the county either directly or by contract with a physician and surgeon or with any clinic or health facility licensed by the department. Neither the county nor anyone else administering the test described in this section and Sections 120885 and 120890, shall ask for the name, social security number, or any other information that could reveal the identity of the individual who takes the test. Each alternative test site shall make available confidential information and referral services, within the funds available, to individuals who seek testing. A county may subcontract with individuals or entities to provide information and referral services.</p> <p>All alternative test sites shall provide a referral list of physicians and surgeons or clinics knowledgeable about AIDS, to all persons who have any known risk factor for AIDS, especially those who have a reactive antibody test, for further information and explanation of the test results and for medical evaluation.</p> <p>At a minimum, individuals seeking testing shall be informed about the validity and accuracy of the antibody test before the test is performed. All testing site personnel shall be required to attest to having provided the above information. Furthermore, all individuals who are tested at the sites established by this section and Sections 120885 and 120890 shall be given the results of this test in person. All sites providing antibody testing pursuant to this section and Sections 120885 and 120890 shall have a protocol for referral for 24-hour inpatient and mental health services. All individuals awaiting test results and all persons to whom results are reported shall be informed of available crisis services and shall be directly referred, if necessary.</p> <p>Each county, designated by the director, shall be required to submit a plan to the department within 45 days after the effective date of this section that details where testing and pretest and posttest information and referral will be provided and the qualifications of the staff who will be performing the services required by this section and Sections 120885 and 120890. The department shall make training available, especially to smaller counties.</p> <p>(b) The department shall establish a reimbursement process for counties within</p>

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	<p>30 days after the effective date of this section for the following services:</p> <ol style="list-style-type: none"> (1) Informing test applicants on the test's reliability and validity. (2) Administration of tests, analysis of test samples, and costs associated with the laboratory work required by this antibody test. (3) Short-term information and referral sessions, of no more than one visit per person tested for the purpose of transmitting the person's test results and, as requested, for referral to available followup services. <p>The department shall establish the amounts to be reimbursed for each of these services, but the amounts shall be established at a level to ensure that the purposes of this section and Sections 120885 and 120890 are carried out. Reimbursements shall be made for each service provided.</p> <p>(c) The department may replace the test for the antibody to the probable causative agent for AIDS with another type of HIV test, as the department deems appropriate.</p> <p>(d) The director may grant a waiver to a county from the requirements of this section and Sections 120885 and 120890 if the county petitions the director for the waiver and the director determines that the waiver is consistent with the purposes of this section and Sections 120885 and 120890.</p> <p>(e) A participating county or the department may accept grants, donations, and in-kind services for purposes of carrying out this section and Sections 120885 and 120890.</p>
§120917	<p>(a) An HIV counselor who is trained by the Office of AIDS and working in an HIV counseling and testing site funded by the department through a local health jurisdiction, or its agents, may do all of the following:</p> <ol style="list-style-type: none"> (1) Perform any HIV test that is classified as waived under the federal Clinical Laboratory Improvement Act (CLIA) (42 U.S.C. Sec. 263a and following) if all of the following conditions exist: <ol style="list-style-type: none"> (A) The performance of the HIV test meets the requirements of CLIA and, subject to subparagraph (B), Chapter 3 (commencing with Section 1200) of Division 2 of the Business and Professions Code. (B) Notwithstanding Section 1246 of the Business and Professions Code, an HIV counselor may perform skin punctures for the purpose of withdrawing blood for HIV testing, upon specific authorization from a licensed physician and surgeon, provided that the person meets both of the following requirements: <ol style="list-style-type: none"> (i) He or she works under the direction of a licensed physician and surgeon. (ii) He or she has been trained in both rapid HIV test proficiency for skin puncture blood tests and oral swab tests and in universal infection control precautions, consistent with best infection control practices established by the Division of Occupational Safety and Health in the Department of Industrial Relations and the federal Centers for Disease Control and Prevention. (C) The person performing the HIV test meets the requirements for the performance of waived laboratory testing pursuant to subdivision (a) of Section 1206.5 of the Business and Professions Code. For purposes of this subdivision and subdivision (a) of Section 1206.5 of the Business and Professions Code, an

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	<p>HIV counselor trained by the Office of AIDS shall be "other health care personnel providing direct patient care" as referred to in paragraph (12) of subdivision (a) of Section 1206.5 of the Business and Professions Code.</p> <p>(D) The patient is informed that the preliminary result of the test is indicative of the likelihood of HIV infection and that the result must be confirmed by an additional more specific test, or, if approved by the federal Centers for Disease Control and Prevention for that purpose, a second different rapid HIV test. Nothing in this subdivision shall be construed to allow an HIV counselor trained by the Office of AIDS to perform any HIV test that is not classified as waived under the CLIA.</p> <p>(2) Notwithstanding Sections 1246.5 and 2053 of the Business and Professions Code, order and report HIV test results from tests performed pursuant to paragraph (1) to patients without authorization from a licensed health care professional or his or her authorized representative. Patients with indeterminate or positive test results from tests performed pursuant to paragraph (1) shall be referred to a licensed health care provider whose scope of practice includes the authority to refer patients for laboratory testing for further evaluation.</p> <p>(b) An HIV counselor who has been certified pursuant to subdivision (b) of Section 120871 prior to September 1, 2009, and who will administer rapid HIV skin puncture tests shall obtain training required by clause (ii) of subparagraph (B) of paragraph (1) of subdivision (a) prior to September 1, 2011. The HIV counselor shall not, unless also certified as a limited phlebotomist technician, perform a skin puncture pursuant to this section until he or she has completed the training required by that clause.</p> <p>(c) An HIV counselor who meets the requirements of this section with respect to performing any HIV test that is classified as waived under the CLIA may not perform any other test unless that person meets the statutory and regulatory requirements for performing that other test.</p> <p>(d) This section shall not be construed to certify an HIV counselor as a phlebotomy technician or a limited phlebotomy technician, or to fulfill any requirements for certification as a phlebotomy technician or a limited phlebotomy technician, unless the HIV counselor has otherwise satisfied the certification requirements imposed pursuant to Section 1246 of the Business and Professions Code.</p>
§120920	<p>Legislative findings and declarations</p> <p>The Legislature hereby finds and declares that people with HIV infection may not avail themselves of early intervention services unless they are aware of the availability of the services and the efficacy of early intervention in prolonging life. This awareness by HIV-infected persons is critical to maximizing the benefits of early intervention. Therefore, it is the intent of the Legislature that the department includes early intervention education as a component of information and education grants in the first grant cycle following enactment of Sections 120900 to 120920, inclusive.</p>
§120975	<p>Privacy rights of persons subject to AIDS blood tests</p> <p>To protect the privacy of individuals who are the subject of blood testing for</p>

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	antibodies to human immunodeficiency virus (HIV), the following shall apply: Except as provided in Section 1603.1, 1603.3, or 121022, no person shall be compelled in any state, county, city, or other local civil, criminal, administrative, legislative, or other proceedings to identify or provide identifying characteristics that would identify any individual who is the subject of a blood test to detect antibodies to HIV.
§120980	<p>Civil and criminal liability for wrongful disclosure of AIDS test results</p> <p>(a) Any person who negligently discloses results of an HIV test, as defined in subdivision (c) of Section 120775, to any third party, in a manner that identifies or provides identifying characteristics of the person to whom the test results apply, except pursuant to a written authorization, as described in subdivision (g), or except as provided in Section 1603.1, 1603.3, or 121022 or any other statute that expressly provides an exemption to this section, shall be assessed a civil penalty in an amount not to exceed two thousand five hundred dollars (\$ 2,500) plus court costs, as determined by the court, which penalty and costs shall be paid to the subject of the test.</p> <p>(b) Any person who willfully or maliciously discloses the results of an HIV test, as defined in subdivision (c) of Section 120775, to any third party, in a manner that identifies or provides identifying characteristics of the person to whom the test results apply, except pursuant to a written authorization, as described in subdivision (g), or except as provided in Section 1603.1, 1603.3, or 121022 or any other statute that expressly provides an exemption to this section, shall be assessed a civil penalty in an amount not less than five thousand dollars (\$ 5,000) and not more than ten thousand dollars (\$ 10,000) plus court costs, as determined by the court, which penalty and costs shall be paid to the subject of the test.</p> <p>(c) Any person who willfully, maliciously, or negligently discloses the results of an HIV test, as defined in subdivision (c) of Section 120775, to a third party, in a manner that identifies or provides identifying characteristics of the person to whom the test results apply, except pursuant to a written authorization, as described in subdivision (g), or except as provided in Section 1603.1, 1603.3, or 121022 or any other statute that expressly provides an exemption to this section, that results in economic, bodily, or psychological harm to the subject of the test, is guilty of a misdemeanor, punishable by imprisonment in the county jail for a period not to exceed one year, or a fine of not to exceed twenty-five thousand dollars (\$ 25,000), or both.</p> <p>(d) Any person who commits any act described in subdivision (a) or (b) shall be liable to the subject for all actual damages, including damages for economic, bodily, or psychological harm that is a proximate result of the act.</p> <p>(e) Each disclosure made in violation of this chapter is a separate and actionable offense.</p> <p>(f) Except as provided in Article 6.9 (commencing with Section 799) of Chapter 1 of Part 2 of Division 1 of the Insurance Code, the results of an HIV test, as</p>

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	<p>defined in subdivision (c) of Section 120775, that identifies or provides identifying characteristics of the person to whom the test results apply, shall not be used in any instance for the determination of insurability or suitability for employment.</p> <p>(g) "Written authorization," as used in this section, applies only to the disclosure of test results by a person responsible for the care and treatment of the person subject to the test. Written authorization is required for each separate disclosure of the test results, and shall include to whom the disclosure would be made.</p> <p>(h) Nothing in this section limits or expands the right of an injured subject to recover damages under any other applicable law. Nothing in this section shall impose civil liability or criminal sanction for disclosure of the results of tests performed on cadavers to public health authorities or tissue banks.</p> <p>(i) Nothing in this section imposes liability or criminal sanction for disclosure of an HIV test, as defined in subdivision (c) of Section 120775, in accordance with any reporting requirement for a case of HIV infection, including AIDS by the department or the Centers for Disease Control and Prevention under the United States Public Health Service.</p> <p>(j) The department may require blood banks and plasma centers to submit monthly reports summarizing statistical data concerning the results of tests to detect the presence of viral hepatitis and HIV. This statistical summary shall not include the identity of individual donors or identifying characteristics that would identify individual donors.</p> <p>(k) "Disclosed," as used in this section, means to disclose, release, transfer, disseminate, or otherwise communicate all or any part of any record orally, in writing, or by electronic means to any person or entity.</p> <p>(l) When the results of an HIV test, as defined in subdivision (c) of Section 120775, are included in the medical record of the patient who is the subject of the test, the inclusion is not a disclosure for purposes of this section.</p>
§120985	<p>Disclosure to health care providers</p> <p>a) Notwithstanding Section 120980, the results of an HIV test that identifies or provides identifying characteristics of the person to whom the test results apply may be recorded by the physician who ordered the test in the test subject's medical record or otherwise disclosed without written authorization of the subject of the test, or the subject's representative as set forth in Section 121020, to the test subject's providers of health care, as defined in subdivision (d) of Section 56.05 of the Civil Code, for purposes of diagnosis, care, or treatment of the patient, except that for purposes of this section "providers of health care" does not include a health care service plan regulated pursuant to Chapter 2.2 (commencing with Section 1340) of Division 2.</p> <p>b) Recording or disclosure of HIV test results pursuant to subdivision (a) does not authorize further disclosure unless otherwise permitted by law.</p>

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§120990	<p>SECTION 1. Section 120990 of the Health and Safety Code is repealed.</p> <p>SEC. 2. Section 120990 is added to the Health and Safety Code, to read:</p> <p>(a) Prior to ordering a test that identifies infection with HIV, a medical care provider shall inform the patient that the test is planned, provide information about the test, inform the patient that there are numerous treatment options available for a patient who tests positive for HIV and that a person who tests negative for HIV should continue to be routinely tested, and advise the patient that he or she has the right to decline the test. If a patient declines the test, the medical care provider shall note that fact in the patient's medical file.</p> <p>(b) Subdivision (a) shall not apply when a person independently requests an HIV test from the provider.</p> <p>(c) Except as provided in subdivision (a), no person shall administer a test for HIV infection unless the person being tested or his or her parent, guardian, conservator, or other person specified in Section 121020, signs a written statement documenting the person's informed consent to the test. This requirement does not apply to such a test performed at an alternative site pursuant to Sections 120890 or 120895. Nothing in this section shall be construed to allow a person to administer a test for HIV unless that person is otherwise permitted under current law to administer an HIV test.</p> <p>(d) Nothing in this section shall preclude a medical examiner or other physician from ordering or performing a test to detect HIV on a cadaver when an autopsy is performed or body parts are donated pursuant to the Uniform Anatomical Gift Act (Chapter 3.5 (commencing with Section 7150) of Part 1 of Division 7).</p> <p>(e) (1) The requirements of subdivision (c) do not apply when blood is tested as part of a scientific investigation conducted either by a medical researcher operating under the approval of an institutional review board or by the department, in accordance with a protocol for unlinked testing. (2) For purposes of this subdivision, "unlinked testing" means blood samples that are obtained anonymously, or that have the name or identifying information of the individual who provided the sample removed in a manner that prevents the test results from ever being linked to a particular individual who participated in the research or study.</p> <p>(f) Nothing in this section shall be construed to permit any person to unlawfully disclose an individual's HIV status, or to otherwise violate provisions of Section 54 of the Civil Code, the Americans With Disabilities Act of 1990 (Public Law 101-336), or the California Fair Employment and Housing Act (Part 2.8 (commencing with Section 12900) of Division 3 of Title 2 of the Government Code), which prohibit discrimination against individuals who are living with HIV, or who test positive for HIV, or are presumed to be HIV-positive.</p>
§120995	Applicability to persons under jurisdiction of California Youth Authority

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	<p>Actions taken pursuant to Section 1768.9 of the Welfare and Institutions Code shall not be subject to subdivisions (a) to (c), inclusive, of Section 120980. In addition, the requirements of subdivision (a) of Section 120990 shall not apply to testing performed pursuant to Section 1768.9 of the Welfare and Institutions Code.</p>
§121000	<p>Provisions inapplicable to medical testing of prisoners</p> <p>Actions taken pursuant to Title 8 (commencing with Section 7500) of Part 3 of the Penal Code shall not be subject to subdivisions (a) to (c), inclusive, of Section 120980. In addition, the requirements of subdivision (a) of Section 120990 shall not apply to testing performed pursuant to that title.</p>
§121010	<p>Permissible disclosure without written authorization</p> <p>Notwithstanding Section 120975 or 120980, the results of a blood test to detect antibodies to the probable causative agent of AIDS may be disclosed to any of the following persons without written authorization of the subject of the test:</p> <p>(a) To the subject of the test or the subject's legal representative, conservator, or to any person authorized to consent to the test pursuant to subdivision (b) of Section 120990.</p> <p>(b) To a test subject's provider of health care, as defined in subdivision (d) of Section 56.05 of the Civil Code, except that for purposes of this section, "provider of health care" does not include a health care service plan regulated pursuant to Chapter 2.2 (commencing with Section 1340) of Division 2.</p> <p>(c) To an agent or employee of the test subject's provider of health care who provides direct patient care and treatment.</p> <p>(d) To a provider of health care who procures, processes, distributes, or uses a human body part donated pursuant to the Uniform Anatomical Gift Act (Chapter 3.5 (commencing with Section 7150) of Part 1 of Division 7).</p> <p>(e)(1) To the designated officer of an emergency response employee, and from that designated officer to an emergency response employee regarding possible exposure to HIV or AIDS, but only to the extent necessary to comply with provisions of the Ryan White Comprehensive AIDS Resources Emergency Act of 1990 (P.L. 101-381; 42 U.S.C. Sec. 201).</p> <p>(2) For purposes of this subdivision, "designated officer" and "emergency response employee" have the same meaning as these terms are used in the Ryan White Comprehensive AIDS Resources Emergency Act of 1990 (P.L. 101-381; 42 U.S.C. Sec. 201).</p> <p>(3) The designated officer shall be subject to the confidentiality requirements specified in Section 120980, and may be personally liable for unauthorized release of any identifying information about the HIV results. Further, the designated officer shall inform the exposed emergency response employee that the employee is also subject to the confidentiality requirements specified in Section 120980, and may be personally liable for unauthorized release of any identifying information about the HIV test results.</p>
§121015	<p>Liability for disclosure of AIDS test results; Confidentiality of identity of person tested and persons contacted</p>

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	<p>(a) Notwithstanding Section 120980 or any other provision of law, no physician and surgeon who has the results of a confirmed positive test to detect HIV infection of a patient under his or her care shall be held criminally or civilly liable for disclosing to a person reasonably believed to be the spouse, or to a person reasonably believed to be a sexual partner or a person with whom the patient has shared the use of hypodermic needles, or to the local health officer, that the patient has tested positive on a test to detect HIV infection, except that no physician and surgeon shall disclose any identifying information about the individual believed to be infected, except as required in Section 121022.</p> <p>(b) No physician and surgeon shall disclose the information described in subdivision (a) unless he or she has first discussed the test results with the patient and has offered the patient appropriate educational and psychological counseling, that shall include information on the risks of transmitting the human immunodeficiency virus to other people and methods of avoiding those risks, and has attempted to obtain the patient's voluntary consent for notification of his or her contacts. The physician and surgeon shall notify the patient of his or her intent to notify the patient's contacts prior to any notification. When the information is disclosed to a person reasonably believed to be a spouse, or to a person reasonably believed to be a sexual partner, or a person with whom the patient has shared the use of hypodermic needles, the physician and surgeon shall refer that person for appropriate care, counseling, and followup. This section shall not apply to disclosures made other than for the purpose of diagnosis, care, and treatment of persons notified pursuant to this section, or for the purpose of interrupting the chain of transmission.</p> <p>(c) This section is permissive on the part of the attending physician, and all requirements and other authorization for the disclosure of test results to detect HIV infection are limited to the provisions contained in this chapter, Chapter 10 (commencing with Section 121075) and Sections 1603.1 and 1603.3. No physician has a duty to notify any person of the fact that a patient is reasonably believed to be infected with HIV, except as required by Section 121022.</p> <p>(d) The local health officer may alert any persons reasonably believed to be a spouse, sexual partner, or partner of shared needles of an individual who has tested positive on an HIV test about their exposure, without disclosing any identifying information about the individual believed to be infected or the physician making the report, and shall refer any person to whom a disclosure is made pursuant to this subdivision for appropriate care and followup. Upon completion of the local health officer's efforts to contact any person pursuant to this subdivision, all records regarding that person maintained by the local health officer pursuant to this subdivision, including, but not limited to, any individual identifying information, shall be expunged by the local health officer.</p> <p>(e) The local health officer shall keep confidential the identity and the seropositivity status of the individual tested and the identities of the persons contacted, as long as records of contacts are maintained.</p> <p>(f) Except as provided in Section 1603.1, 1603.3, or 121022, no person shall</p>

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	be compelled in any state, county, city, or local civil, criminal, administrative, legislative, or other proceedings to identify or provide identifying characteristics that would identify any individual reported or person contacted pursuant to this section.
§121020	<p>Requirement of written consent for incompetent subject; Consent for minor; Disclosure of results</p> <p>(a)(1) When the subject of an HIV test is not competent to give consent for the test to be performed, written consent for the test may be obtained from the subject's parents, guardians, conservators, or other person lawfully authorized to make health care decisions for the subject. For purposes of this paragraph, a minor shall be deemed not competent to give consent if he or she is under 12 years of age.</p> <p>(2) Notwithstanding paragraph (1), when the subject of the test is a minor adjudged to be a dependent child of the court pursuant to Section 360 of the Welfare and Institutions Code, written consent for the test to be performed may be obtained from the court pursuant to its authority under Section 362 or 369 of the Welfare and Institutions Code.</p> <p>(b) Written consent shall only be obtained for the subject pursuant to subdivision (a) when necessary to render appropriate care or to practice preventative measures.</p> <p>(c) The person authorized to consent to the test pursuant to subdivision (a) shall be permitted to do any of the following:</p> <p>(1) Notwithstanding Sections 120975 and 120980, receive the results of the test on behalf of the subject without written authorization.</p> <p>(2) Disclose the test results on behalf of the subject in accordance with Sections 120975 and 120980.</p> <p>(3) Provide written authorization for the disclosure of the test results on behalf of the subject in accordance with Sections 120975 and 120980.</p>
§121022	<p>Use of patients name when reporting cases of HIV infection to local health officers; Reporting unduplicated HIV cases by name to State Department of Health; Promulgation of specified emergency regulations; Disclosure of HIV information to federal, state, and local health agencies; Penalties for breach of confidentiality</p> <p>(a) To ensure knowledge of current trends in the HIV epidemic and to assure that California remains competitive for federal HIV and AIDS funding, health care providers and laboratories shall report cases of HIV infection to the local health officer using patient names. Local health officers shall report unduplicated HIV cases by name to the department.</p> <p>(b) The department and local health officers shall ensure continued reasonable access to anonymous HIV testing through alternative testing sites, as established by Section 120890, and in consultation with HIV planning groups and affected stakeholders, including representatives of persons living with HIV and health officers.</p>

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	<p>(c) The department shall promulgate emergency regulations to conform the relevant provisions of Article 3.5 (commencing with Section 2641.5) of Chapter 4 of Title 17 of the California Code of Regulations, consistent with this chapter, within one year of the effective date of this section.</p> <p>(d) Pursuant to Section 121025, reported cases of HIV infection shall not be disclosed, discoverable, or compelled to be produced in any civil, criminal, administrative, or other proceeding.</p> <p>(e) State and local health department employees and contractors shall be required to sign confidentiality agreements developed by the department that include information related to the penalties for a breach of confidentiality, and the procedures for reporting a breach of confidentiality, prior to accessing confidential HIV-related public health records. Those agreements shall be reviewed annually by either the department or the appropriate local health department.</p> <p>(f) No person shall disclose identifying information reported pursuant to subdivision (a) to the federal government, including, but not limited to, any agency, employee, agent, contractor, or anyone else acting on behalf of the federal government, except as permitted under subdivision (b) of Section 121025.</p> <p>(g)(1) Any potential or actual breach of confidentiality of HIV-related public health records shall be investigated by the local health officer, in coordination with the department, when appropriate. The local health officer shall immediately report any evidence of an actual breach of confidentiality of HIV-related public health records at a city or county level to the department and the appropriate law enforcement agency.</p> <p>(2) The department shall investigate any potential or actual breach of confidentiality of HIV-related public health records at the state level, and shall report any evidence of such a breach of confidentiality to an appropriate law enforcement agency.</p> <p>(h) Any willful, negligent, or malicious disclosure of cases of HIV infection reported pursuant to subdivision (a) shall be subject to the penalties prescribed in Section 121025.</p> <p>(i) Nothing in this section shall be construed to limit other remedies and protections available under state or federal law.</p>
§121023	<p>(a) Subject to subdivision (b), each clinical laboratory, as defined in Section 1206 of the Business and Professions Code, shall report all CD4+ T-Cell test results to the local health officer for the local health jurisdiction where the health care provider facility is located within seven days of the completion of the CD4+ T-Cell test.</p> <p>(b) A clinical laboratory shall not be required to report a CD4+ T-Cell test result, as required by this section, if the clinical laboratory can demonstrate that the CD4+ T-Cell test result is not related to a diagnosed case of HIV infection.</p>

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	<p>(c) The clinical laboratory report with CD4+ T-Cell test results shall also include, if provided by the ordering health care provider, all of the following:</p> <ol style="list-style-type: none"> (1) The patient's name. (2) The patient's date of birth. (3) The patient's gender. (4) The name, telephone number, and address of the local health care provider that ordered the test. <p>(d) The clinical laboratory report with CD4+ T-Cell test results shall also include all of the following information:</p> <ol style="list-style-type: none"> (1) CD4+ T-Cell test results expressed as an absolute count (the number of lymphocytes containing the CD4 epitope per cubic millimeter) and, if available, the relative count (the number of lymphocytes expressing the CD4 epitope as a percentage of total lymphocytes). (2) The type of laboratory test performed. (3) The date the laboratory test was performed. (4) The name, telephone number, and address of the clinical laboratory that performed the test. (5) The laboratory CLIA number. (6) The laboratory report number. <p>(e) (1) Each local health officer shall inspect each clinical laboratory CD4+ T-Cell test report to determine if the test is related to a case of HIV infection.</p> <p>(2) If the clinical laboratory CD4+ T-Cell test result is related to a case of HIV infection, the local health officer shall report the case of HIV infection or AIDS, as appropriate, to the State Department of Public Health within 45 days of receipt of the laboratory report.</p> <p>(3) If the clinical laboratory CD4+ T-Cell test result is not related to a case of HIV infection, the local health officer shall destroy the laboratory CD4+ T-Cell test report.</p> <p>(f) Pursuant to Section 121025, CD4+ T-Cell test reports shall not be disclosed, discoverable, or compelled to be produced in any civil, criminal, administrative, or other proceeding.</p> <p>(g) CD4+ T-Cell test reports shall be considered confidential public health records as defined in Section 121035.</p> <p>(h) For the purposes of this section, "CD4+ T-Cell test" means any test used to measure the number of lymphocytes containing the CD4 epitope.</p>
§121025	<p>Confidentiality of public health records relating to aids</p> <p>(a) Public health records relating to human immunodeficiency virus (HIV) or acquired immunodeficiency syndrome (AIDS), containing personally identifying information, that were developed or acquired by state or local public health agencies, or an agent of such an agency, shall be confidential and shall not be disclosed, except as otherwise provided by law for public health purposes or pursuant to a written authorization by the person who is the subject of the record or by his or her guardian or conservator.</p> <p>(b) In accordance with subdivision (f) of Section 121022, state or local public health agencies, or an agent of such an agency, may disclose personally identifying information in public health records, as described in subdivision (a), to other local, state, or federal public health agencies or to corroborating medical researchers, when the confidential information is necessary to carry</p>

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	<p>out the duties of the agency or researcher in the investigation, control, or surveillance of disease, as determined by the state or local public health agency.</p> <p>(c) Any disclosure authorized by subdivision (a) or (b) shall include only the information necessary for the purpose of that disclosure and shall be made only upon agreement that the information will be kept confidential and will not be further disclosed without written authorization, as described in subdivision (a).</p> <p>(d) No confidential public health record, as defined in subdivision (c) of Section 121035, shall be disclosed, discoverable, or compelled to be produced in any civil, criminal, administrative, or other proceeding.</p> <p>(e)(1) Any person who negligently discloses the content of any confidential public health record, as defined in subdivision (c) of Section 121035, to any third party, except pursuant to a written authorization, as described in subdivision (a), or as otherwise authorized by law, shall be subject to a civil penalty in an amount not to exceed two thousand five hundred dollars (\$ 2,500), plus court costs, as determined by the court, which penalty and costs shall be paid to the person whose record was disclosed.</p> <p>(2) Any person who willfully or maliciously discloses the content of any confidential public health record, as defined in subdivision (c) of Section 121035, to any third party, except pursuant to a written authorization, or as otherwise authorized by law, shall be subject to a civil penalty in an amount not less than five thousand dollars (\$ 5,000) and not more than ten thousand dollars (\$ 10,000), plus court costs, as determined by the court, which penalty and costs shall be paid to the person whose confidential public health record was disclosed.</p> <p>(3) Any person who willfully, maliciously, or negligently discloses the content of any confidential public health record, as defined in subdivision (c) of Section 121035, to any third party, except pursuant to a written authorization, or as otherwise authorized by law, that results in economic, bodily, or psychological harm to the person whose confidential public health record was disclosed, is guilty of a misdemeanor, punishable by imprisonment in the county jail for a period not to exceed one year, or a fine of not to exceed twenty-five thousand dollars (\$ 25,000), or both, plus court costs, as determined by the court, which penalty and costs shall be paid to the person whose confidential public health record was disclosed.</p> <p>(4) Any person who commits any act described in paragraph (1), (2), or (3), shall be liable to the person whose confidential public health record was disclosed for all actual damages for economic, bodily, or psychological harm that is a proximate result of the act.</p> <p>(5) Each violation of this section is a separate and actionable offense.</p> <p>(6) Nothing in this section limits or expands the right of an injured person whose confidential public health record was disclosed to recover damages under any other applicable law.</p> <p>(f) In the event that a confidential public health record, as defined in subdivision (c) of Section 121035, is disclosed, the information shall not be used to determine employability, or insurability of any person.</p>

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§121035	<p>Definitions</p> <p>For purposes of this chapter:</p> <p>(a) "Disclosed" or "disclosure" or "discloses" has the same meaning as set forth in subdivision (b) of Section 121125.</p> <p>(b) "State or local public health agencies" are the department, and any local entity that a health officer, as defined in Section 120100, serves.</p> <p>(c) "Confidential public health record or records" means any paper or electronic record maintained by the department or a local health department or agency, or its agent, that includes data or information in a manner that identifies personal information, including, but not limited to, name, social security number, address, employer, or other information that may directly or indirectly lead to the identification of the individual who is the subject of the record.</p>
§121050	<p>Purpose and legislative intent</p> <p>The people of the State of California find and declare that AIDS, AIDS-related conditions, and other communicable diseases pose a major threat to the public health and safety.</p> <p>The health and safety of the public, victims of sexual crimes, and peace officers, firefighters, and custodial personnel who may come into contact with infected persons, have not been adequately protected by law. The purpose of this chapter is to require that information that may be vital to the health and safety of the public, victims of certain crimes, certain defendants and minors, and custodial personnel, custodial medical personnel, peace officers, firefighters and emergency medical personnel put at risk in the course of their official duties, be obtained and disclosed in an appropriate manner in order that precautions can be taken to preserve their health and the health of others or that those persons can be relieved from groundless fear of infection.</p> <p>It is the intent of this chapter to supersede in case of conflict existing statutes or case law on the subjects covered including but not limited to the confidentiality and consent provisions contained in Chapter 7 (commencing with Section 120975), Chapter 8 (commencing with Section 121025), and Chapter 10 (commencing with Section 121075).</p>
§121055	<p>Sex crimes</p> <p>Any defendant charged in any criminal complaint filed with a magistrate or court with any violation of Penal Code Sections 261, 261.5, 262, 266b, 266c, 286, 288, or 288a and any minor with respect to whom a petition has been filed in a juvenile court alleging violation of any of the foregoing laws, shall be subject to an order of a court having jurisdiction of the complaint or petition requiring testing as provided in this chapter.</p> <p>If an alleged victim listed in the complaint or petition makes a written request for testing under this section, the prosecuting attorney, or the alleged victim may petition the court for an order authorized under this section.</p>

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	<p>The court shall promptly conduct a hearing upon any such petition. If the court finds that probable cause exists to believe that a possible transfer of blood, saliva, semen, or other bodily fluid took place between the defendant or minor and the alleged victim in an act specified in this section, the court shall order that the defendant or minor provide two specimens of blood for testing as provided in this chapter.</p> <p>Copies of the test results shall be sent to the defendant or minor, each requesting victim and, if the defendant or minor is incarcerated or detained, to the officer in charge and the chief medical officer of the facility where the person is incarcerated or detained.</p>
§121056	<p>Petition by certain forensic scientists for biological specimen testing of criminal defendant</p> <p>a) Any forensic scientist, including, but not limited to, any criminalist, toxicologist, and forensic pathologist, or any other employee required to handle or perform DNA or other forensic evidence analysis within the scope of his or her duties, who comes into contact with blood or other bodily fluids on, upon, or through the skin or membranes of his or her person while handling or performing testing on forensic evidence, may petition, ex parte, the court having jurisdiction over the laboratory in which he or she works for an order authorized under this chapter.</p> <p>The employing agency, officer, or entity of the affected employee may also file an ex parte petition for an order authorized under this chapter. Before filing a petition, the requesting party shall make a reasonable effort to obtain the consent of the person whose blood or bodily fluids is to be tested.</p> <p>b) The court shall promptly consider any petition filed pursuant to this section. If the court finds that probable cause exists to believe that a possible transfer of blood, saliva, semen, or other bodily fluid took place between the forensic evidence collected and the forensic scientist, criminalist, toxicologist, forensic pathologist, or any other employee required to handle evidence or perform forensic testing thereon as specified in this section, the court shall promptly order that the existing forensic evidence be tested as provided in this chapter.</p> <p>c) (1) Except as provided in paragraph (2), copies of the test results shall be sent to each requesting employee named in the petition, and his or her employing agency, officer, or entity, to the person whose sample was tested, and to the officer in charge and the chief medical officer of the facility in which the person is incarcerated or detained.</p> <p>(2) The person whose sample was tested, shall be advised that he or she will be informed of the HIV test results only if he or she wishes to be so informed. If the person declines to be informed of the HIV test results, then he or she shall sign a form documenting that refusal. The person's refusal to sign that form shall be construed to be a request to be informed of the HIV test results.</p>
§121060	Assaults on officers

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	<p>(a) Any peace officer, firefighter, custodial officer, as that term is defined in subdivision (a) of Section 831 or subdivision (a) of Section 831.5 of the Penal Code, a custody assistant, as that term is defined in subdivision (a) of Section 831.7 of the Penal Code, a nonsworn uniformed employee of a law enforcement agency whose job entails the care or control of inmates in a detention facility, a nonsworn employee of a law enforcement agency whose job description entails the collection of fingerprints, or emergency medical personnel who, while acting within the scope of his or her duties, is exposed to an arrestee's blood or bodily fluids, as defined in Section 121060.1, shall do the following:</p> <p>(1) Prior to filing a petition with the court, a licensed health care provider shall notify the arrestee of the bloodborne pathogen exposure and make a good faith effort to obtain the voluntary informed consent of the arrestee or the arrestee's authorized legal representative to perform a test for human immunodeficiency virus (HIV), hepatitis B, and hepatitis C. The voluntary informed consent shall be in writing. Once consent is given in writing, the arrestee shall provide three specimens of blood for testing as provided in this chapter.</p> <p>(2) If voluntary informed consent is not given in writing, the affected individual may petition, ex parte, the court for an order requiring testing as provided in this chapter. The petition shall include a written certification by a health care professional that an exposure, including the nature and extent of the exposure, has occurred.</p> <p>(b) The court shall promptly conduct a hearing upon a petition filed pursuant to paragraph (2) of subdivision (a). If the court finds that probable cause exists to believe that a possible bloodborne pathogen exposure, as defined in Section 121060.1, took place between the arrestee and the peace officer, firefighter, custodial officer, custody assistant, nonsworn uniformed employee of a law enforcement agency whose job entails the care or control of inmates in a detention facility, nonsworn employee of a law enforcement agency whose job description entails the collection of fingerprints, or emergency medical personnel, as specified in this section, the court shall order that the arrestee provide three specimens of blood for testing as provided in this chapter.</p> <p>(c) (1) Except as provided in paragraph (2), copies of the test results shall be sent to the arrestee, each peace officer, firefighter, custodial officer, custody assistant, nonsworn uniformed employee of a law enforcement agency whose job entails the care or control of inmates in a detention facility, nonsworn employee of a law enforcement agency whose job description entails the collection of fingerprints, and emergency medical personnel named in the petition and his or her employing agency, officer, or entity, and if the arrestee is incarcerated or detained, to the officer in charge and the chief medical officer of the facility where the person is incarcerated or detained.</p> <p>(2) The person whose sample was tested, shall be advised that he or she will be informed of the hepatitis B, hepatitis C, and HIV test results only if he or she wishes to be so informed. If the person consents to be informed of the hepatitis B, hepatitis C, and HIV test results, then he or she shall sign a form documenting that consent. The person's refusal to sign that form shall be construed to be a refusal to be informed of the hepatitis B, hepatitis C, and HIV test results.</p>

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	(3) Except as otherwise provided under this section, all confidentiality requirements regarding medical records shall apply to the test results obtained.
§121065	<p>Testing</p> <p>a) The withdrawal of blood 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 this chapter.</p> <p>b) The court shall order that the blood specimens be transmitted to a licensed medical laboratory and that tests be conducted thereon for medically accepted indications of exposure to or infection by acquired immunity deficiency syndrome (AIDS) virus, AIDS-related conditions, and those communicable diseases for which medically approved testing is readily and economically available as determined by the court.</p> <p>c) Copies of test results that indicate exposure to or infection by AIDS, AIDS-related conditions, or other communicable diseases shall also be transmitted to the department.</p> <p>d) The test results shall be sent to the designated recipients with the following disclaimer: "The tests were conducted in a medically approved manner but tests cannot determine exposure to or infections by AIDS or other communicable diseases with absolute accuracy. Persons receiving this test result should continue to monitor their own health and should consult a physician as appropriate." If the person subject to the test is a minor, copies of the test result shall also be sent to the minor's parents or guardian.</p> <p>e) The court shall order all persons, other than the test subject, who receive test results pursuant to Sections 121055, 121056, or 121060, to maintain the confidentiality of personal identifying data relating to the test results except for disclosure that may be necessary to obtain medical or psychological care or advice.</p> <p>f) The specimens and the results of tests ordered pursuant to Sections 121055, 121056, and 121060 shall not be admissible evidence in any criminal or juvenile proceeding.</p> <p>g) Any person performing testing, transmitting test results, or disclosing information pursuant to the provisions of this chapter shall be immune from civil liability for any action undertaken in accordance with the provisions of this chapter.</p>
§121070	<p>Custodial safety</p> <p>Any medical personnel employed by, under contract to, or receiving payment from the State of California, any agency thereof, or any county, city, or city and county to provide service at any state prison, the Medical Facility, any Youth Authority institution, any county jail, city jail, hospital jail ward, juvenile</p>

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	hall, juvenile detention facility, or any other facility where adults are held in custody or minors are detained, or any medical personnel employed, under contract, or receiving payment to provide services to persons in custody or detained at any of the foregoing facilities, who receives information as specified herein that an inmate or minor at the facility has been exposed to or infected by the AIDS virus or has an AIDS-related condition or any communicable disease, shall communicate the information to the officer in charge of the facility where the inmate or minor is in custody or detained.
§121285	<p>Project authorized; Report to Legislature; Evaluation panel to convene; Requirements for furnishing and selling nonprescription hypodermic needles and syringes; Responsibilities of local health departments</p> <p>(d) In order to furnish or sell nonprescription hypodermic needles or syringes as part of the Disease Prevention Demonstration Project in a county or city that has provided authorization pursuant to Section 4145 of the Business and Professions Code, a pharmacy shall do all of the following:</p> <p>(1) Register with the local health department by providing a contact name and related information, and certify that it will provide, at the time of furnishing or sale of hypodermic needles or syringes, written information or verbal counseling on all of the following:</p> <p>(A) How to access drug treatment.</p> <p>(B) How to access testing and treatment for HIV and hepatitis C.</p> <p>(C) How to safely dispose of sharps waste.</p> <p>(2) Store hypodermic needles and syringes so that they are available only to authorized personnel, and not openly available to customers.</p> <p>(3) In order to provide for the safe disposal of hypodermic needles and syringes, a registered pharmacy shall provide one or more of the following options:</p> <p>(A) An onsite safe hypodermic needle and syringe collection and disposal program.</p> <p>(B) Furnish or make available for purchase mail-back sharps disposal containers authorized by the United States Postal Service that meet applicable state and federal requirements, and provide tracking forms to verify destruction at a certified disposal facility.</p> <p>(C) Furnish or make available for purchase personal sharps disposal containers that meet state and federal standards for disposal of medical waste.</p>
§121340	<p>Determination and reports concerning compliance with federal standards</p> <p>a) The State Department of Health Services, in consultation with the California Conference of Local Health Officers, the California Medical Association, HIV treatment providers, and public health and other stakeholders, shall determine, no later than December 31, 2005, whether California's HIV reporting system has achieved compliance with standards and criteria necessary to ensure continued federal funding for California under the federal Ryan White Comprehensive AIDS Resources Emergency (CARE) Act of 1990 (Public Law 101-381), as amended October 20, 2000 (Public Law 106-345).</p>

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	<p>b) The department shall inform the appropriate committees of the Legislature of its findings under subdivision (a) by December 31, 2005.</p> <p>c) The department shall also report to the appropriate committees of the Legislature all written communications from the Centers for Disease Control and Prevention to the state received before December 31, 2005, that indicate that California's HIV reporting system has not or will not meet the federal standards and criteria for an HIV reporting system pursuant to the Ryan White CARE Act.</p>
§121362	<p>Reports to local health officers; Documentation; Parolees</p> <p>Each health care provider who treats a person for active tuberculosis disease, each person in charge of a health facility, or each person in charge of a clinic providing outpatient treatment for active tuberculosis disease shall promptly report to the local health officer at the times that the health officer requires, but no less frequently than when there are reasonable grounds to believe that a person has active tuberculosis disease, and when a person ceases treatment for tuberculosis disease. Situations in which the provider may conclude that the patient has ceased treatment include times when the patient fails to keep an appointment, relocates without transferring care, or discontinues care. The initial disease notification report shall include an individual treatment plan that includes the patient's name, address, date of birth, tuberculin skin test results, pertinent radiologic, microbiologic, and pathologic reports, whether final or pending, and any other information required by the local health officer. Subsequent reports shall provide updated clinical status and laboratory results, assessment of treatment adherence, name of current care provider if the patient transfers care, and any other information required by the local health officer. A facility discharge, release, or transfer report shall include all pertinent and updated information required by the local health officer not previously reported on any initial or subsequent report, and shall specifically include a verified patient address, the name of the medical provider who has specifically agreed to provide medical care, clinical information used to assess the current infectious state, and any other information required by the local health officer. Each health care provider who treats a person with active tuberculosis disease, and each person in charge of a health facility or a clinic providing outpatient treatment for active tuberculosis disease, shall maintain written documentation of each patient's adherence to his or her individual treatment plan. Nothing in this section shall authorize the disclosure of test results for human immunodeficiency virus (HIV) unless authorized by Chapter 7 (commencing with Section 120975) of, Chapter 8 (commencing with Section 121025) of, and Chapter 10 (commencing with Section 121075) of Part 4 of Division 105.</p> <p>In the case of a parolee under the jurisdiction of the Department of Corrections, the local health officer shall notify the assigned parole agent, when known, or the regional parole administrator, when there are reasonable grounds to believe that the parolee has active tuberculosis disease and when the parolee ceases treatment for tuberculosis. Situations where the local health officer may conclude that the parolee has ceased treatment include times when the parolee fails to keep an appointment, relocates without transferring care,</p>

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	or discontinues care.
§122420	<p>Duties of Director of Health Services</p> <p>The Director of Health Services shall do all of the following:</p> <p>(a) Develop and implement a public education and outreach program to raise awareness of the hepatitis C virus aimed at high-risk groups, physician's offices, health care workers, and health care facilities. The program shall do all of the following:</p> <p>(1) Attempt to coordinate with national public education efforts related to the identification and notification of recipients of blood from hepatitis C virus-positive donors.</p> <p>(2) Attempt to stimulate interest and coordinate with community-based organizations to sponsor community forums and undertake other appropriate community outreach activities.</p> <p>(3) Employ public communication strategies utilizing a variety of media that may include, but is not limited to, print, radio, television, and the Internet.</p> <p>(b) Include information on co-infection of human immunodeficiency virus (HIV) or hemophilia with the hepatitis C virus in the professional training and all appropriate care and treatment programs under the jurisdiction of the department.</p> <p>(c) Develop a program to work with the Department of Corrections to identify hepatitis C virus-positive inmates likely to be released within two years and provide counseling and treatment options to reduce the community risk.</p> <p>(d) Urge local public health officials to make hepatitis C virus screening available for uninsured individuals upon request.</p> <p>(e) Include hepatitis C counseling, education, and testing, as appropriate, into local state-funded programs including those addressing HIV, tuberculosis, sexually transmitted disease, and all other appropriate programs approved by the director.</p>
§123148	<p>Report to patient of results of clinical laboratory test</p> <p>f) Notwithstanding subdivisions (a) and (b), none of the following clinical laboratory test results and any other related results shall be conveyed to a patient by Internet posting or other electronic means:</p> <p>(1) HIV antibody test.</p>
§125085	<p>Submission of blood specimen to clinical laboratory; Report of results</p> <p>a) As early as possible during prenatal care, a blood specimen obtained pursuant to Section 125080 shall be submitted to a clinical laboratory licensed by the department or to an approved public health laboratory for a determination of rhesus (Rh) blood type and the results shall be reported to both of the following:</p>

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	<p>(1) The physician and surgeon or other person engaged in the prenatal care of the woman or attending the woman at the time of delivery.</p> <p>(2) The woman tested.</p> <p>b) (1) In addition, as early as possible during prenatal care, a blood specimen obtained pursuant to Section 125080 shall be submitted to a clinical laboratory licensed by the department or to an approved public health laboratory for a test to determine the presence of hepatitis B surface antigen and the human immunodeficiency virus (HIV), and the results shall be reported to both of the following:</p> <p>(A) The physician and surgeon or other person engaged in the prenatal care of the women or attending the woman at the time of delivery who ordered the test, and who shall subsequently inform the woman tested.</p> <p>(B) A positive test result shall be reported to the local health officer, with the information required and within the timeframes established by the department, pursuant to Chapter 4 (commencing with Section 2500) of Title 17 of the California Code of Regulations.</p> <p>(2) In the event that other tests to determine hepatitis B infection or HIV infection become available, the department may approve additional tests.</p>
§125090	<p>Exceptions to requirement of submission of blood specimen to clinical laboratory; Information of intent to perform test for HIV; Report of results; Counseling</p> <p>a) Subdivision (a) of Section 125085 shall not be applicable if the licensed physician and surgeon or other person engaged in the prenatal care of a pregnant woman or attending the woman at the time of delivery has knowledge of the woman's blood type and accepts responsibility for the accuracy of the information.</p> <p>b) Subdivision (b) of Section 125085 shall not be applicable if the licensed physician and surgeon or other person engaged in the prenatal care of a pregnant woman or attending the woman at the time of delivery has knowledge that the woman has previously been determined to be chronically infected with hepatitis B or human immunodeficiency virus (HIV) and accepts responsibility for the accuracy of the information.</p> <p>c) Prior to obtaining a blood specimen collected pursuant to subdivision (b) of Section 125085 or this section, the physician and surgeon or other person engaged in the prenatal care of a pregnant woman or attending the woman at the time of delivery 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 of the testing, the risks and benefits of the test, the risk of perinatal transmission of HIV, that approved treatments are known to decrease the risk of perinatal transmission of HIV, and that the woman has a right to decline this testing</p> <p>d) If, during the final prenatal care standard medical tests, the medical records of the pregnant woman do not document a test for rhesus (Rh) blood type, a test for hepatitis B, or a test for HIV, the physician and surgeon or other person engaged in the prenatal care of the woman or attending the</p>

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	<p>woman at the time of labor or delivery shall obtain a blood specimen from the woman for the test that has not been documented. Prior to obtaining this blood specimen, the provider shall ensure that the woman is informed of the intent to perform the tests that have not been documented prior to this visit, including a test for HIV infection, the routine nature of the test, the purpose of the testing, the risks and benefits of the test, the risk of perinatal transmission of HIV, that approved treatments are known to decrease the risk of perinatal transmission of HIV, and that the woman has a right to decline the HIV test. The blood shall be tested by a method that will ensure the earliest possible results, and the results shall be reported to both of the following:</p> <ul style="list-style-type: none"> (1) The physician and surgeon or other person engaged in the prenatal care of the woman or attending the woman at the time of delivery. (2) The woman tested. <p>e) After the results of the tests done pursuant to this section and Section 125085 have been received, the physician and surgeon or other person engaged in the prenatal care of the pregnant woman or attending the woman at the time of labor, delivery, or postpartum care at the time the results are received shall ensure that the woman receives information and counseling, as appropriate, to explain the results and the implications for the mother's and infant's health, including any followup care that is indicated. If the woman tests positive for HIV antibodies, she shall also receive, whenever possible, a referral to a provider, provider group, or institution specializing in prenatal care and post partum care for HIV positive women and their infants. Health care providers are also strongly encouraged to seek consultation with HIV specialists who provide care for pregnant and post partum HIV-positive women and their infants.</p> <p>f) The provisions of Section 125107 for counseling are equally applicable to every pregnant patient covered by subdivisions (c) and (d).</p> <p>(g) Nothing in this section shall be construed to permit a licensed physician and surgeon or other person engaged in the prenatal care of a pregnant woman or attending the woman at the time of delivery to unlawfully disclose an individual's HIV status, or to otherwise violate provisions of Section 54 of the Civil Code, the Americans With Disabilities Act of 1990 (Public Law 101-336), or the California Fair Employment and Housing Act (Part 2.8 (commencing with Section 12900) of Division 3 of Title 2 of the Government Code), which prohibit discrimination against individuals who are living with HIV, or who test positive for HIV, or are presumed to be HIV-positive.</p>
§125092	<p>Development of culturally sensitive informational material explaining intent to perform HIV or hepatitis B tests</p> <p>The department, in consultation with the Office of AIDS and with other stakeholders, including, but not limited to, representatives of professional medical and public health advocacy groups, providers of health care to women and infants infected with or exposed to HIV, and women living with HIV, shall develop culturally sensitive informational material adequate to fulfill the requirements of subdivisions (c) and (d) of Section 125090, in English,</p>

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	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. This material shall be completed by December 31, 2004.
§125107	<p>Prenatal Care Provider</p> <p>a) For purposes of this section, "prenatal care provider" means a licensed health care professional providing prenatal care within his or her lawful scope of practice. This definition shall not include a licensed health care professional who provides care other than prenatal care to a pregnant patient.</p> <p>b) The prenatal care provider primarily responsible for providing prenatal care to a pregnant patient shall offer human immunodeficiency virus (HIV) information and counseling to every pregnant patient. This information and counseling shall include, but shall not be limited to, all of the following:</p> <ol style="list-style-type: none"> (1) A description of the modes of HIV transmission. (2) A discussion of risk reduction behavior modifications including methods to reduce the risk of perinatal transmission. (3) If appropriate, referral information to other HIV prevention and psychosocial services including anonymous and confidential test sites approved by the Office of AIDS. <p>c) Nothing in this section shall be construed to require mandatory testing. Any documentation or disclosure of HIV related information shall be made in accordance with Chapter 7 (commencing with Section 120975) of Part 4 of Division 105 regarding confidentiality and informed consent.</p> <p>d) Nothing in this section shall be construed to permit a prenatal care provider to unlawfully disclose an individual's HIV status, or to otherwise violate provisions of Section 54 of the Civil Code, or the Americans With Disabilities Act of 1990 (Public Law 101-336), or the California Fair Employment and Housing Act (Part 2.8 (commencing with Section 12900) of Division 3 of Title 2 of the Government Code), which prohibit discrimination against individuals who are living with HIV, or who test positive for HIV, or are presumed to be HIV-positive.</p>
§131019	<p>Office of AIDS</p> <p>There is in the State Department of Health Services an Office of AIDS. The State Department of Health Services, Office of AIDS, shall be the lead agency within the state, responsible for coordinating state programs, services, and activities relating to the human immunodeficiency virus (HIV), acquired immune deficiency syndrome (AIDS), and AIDS related conditions (ARC). Among its responsibilities, the State Department of Health Services, Office of AIDS, shall coordinate Sections 120875, Section 120880, Chapter 2 (commencing with Section 120800), Chapter 4 (commencing with Section 120900), Chapter 6 (commencing with Section 120950), Chapter 8 (commencing with Section 121025), Chapter 9 (commencing with Section</p>

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	121050), Chapter 10 (commencing with Section 121075), Chapter 11 (commencing with Section 121150), Chapter 12 (commencing with Section 121200), Chapter 13 (commencing with Section 121250), and Chapter 14 (commencing with Section 121300), of Part 4 of Division 105. Any reference in those provisions to the State Department of Health Services shall be deemed a reference to the Office of AIDS.

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§903.8	<p>Basic foster parent training program</p> <p>(a) Beginning January 1, 1994, the State Department of Social Services shall develop and implement an enhanced statewide basic foster parent training program. It is the intent of the Legislature to fund this program by allocating unexpended child welfare services funds from the 1992-93 fiscal year to support a two and one-half year training curricula development.</p> <p>(b) During this two and one-half year period, the State Department of Social Services shall do all of the following, in cooperation with foster parents and representatives from county placement agencies and other foster care providers:</p> <p>(1) Complete a comprehensive survey of existing foster parent training curricula and resources, evaluate the existing foster parent training delivery system and explore alternative delivery models, complete a needs assessment of foster parents, and develop and implement a statewide core curriculum.</p> <p>(2) Develop and implement curricula for, teenage pregnancy prevention and other special needs topics, as identified in the needs assessment, to supplement the core curriculum. The teenage pregnancy prevention topics shall be based upon public health fact-based materials and programs. Curricula for teenage pregnancy prevention shall emphasize that abstinence from sexual intercourse is the only protection that is 100 percent effective against unwanted teenage pregnancy, sexually transmitted diseases, and acquired immune deficiency syndrome (AIDS) when transmitted sexually, and that all other methods of contraception carry a risk of failure in preventing unwanted teenage pregnancy. The curricula shall:</p> <p>(A) Include statistics based on the latest medical information citing the failure and success rates of condoms and other contraceptives in preventing pregnancy.</p> <p>(B) Stress that sexually transmitted diseases are serious possible hazards of sexual intercourse, and shall include statistics based on the latest medical information citing the failure and success rates of condoms in preventing AIDS and other sexually transmitted diseases.</p> <p>(C) Include a discussion of the possible emotional and psychological consequences of preadolescent and adolescent sexual intercourse outside of marriage and the consequences of unwanted adolescent pregnancy.</p> <p>(3) Evaluate the current foster parent training funding formula and explore funding alternatives to ensure that a permanent and adequate funding source is available.</p> <p>(4) Evaluate current recruitment strategies and facilitate the expansion of recruitment activities, especially targeting minority families for the promotion of the placement of minority youth with trained and culturally competent families of the same ethnicity and cultural background.</p> <p>(5) In its foster parent recruitment and training effort, place special emphasis on the recruitment of prospective foster parents willing to accept sibling placements and the training of foster parents to ensure they are able</p>

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	<p>and ready to care for a sibling group.</p> <p>(c) It is not the intent of the Legislature and nothing in this section shall be construed as requiring foster parents to participate in this training program in whole or in part.</p>
§1123	<p>Provision of information about acquired immune deficiency syndrome (AIDS)</p> <p>Subject to the availability of adequate state funding for these purposes, the Director of the Youth Authority shall provide all wards at each penal institution within the jurisdiction of the department, including camps, with information about behavior that places a person at high risk for contracting the human immunodeficiency virus (HIV), and about the prevention of transmission of acquired immune deficiency syndrome (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. Information about AIDS prevention shall be solicited by the director from the State Department of Health Services, the county health officer, or local agencies providing services to persons with AIDS. The Director of Health Services, or his or her designee, shall approve protocols pertaining to the information to be disseminated, and the training to be provided, under this section.</p>
§1768.9	<p>Mandatory AIDS testing; Counseling; Testing procedures; Separate housing</p> <p>a) Notwithstanding any other provision of law, a person under the jurisdiction or control of the Department of the Youth Authority is obligated to submit to a test for the probable causative agent of AIDS upon a determination of the chief medical officer of the facility that clinical symptoms of AIDS or AIDS-related complex, as recognized by the Centers for Disease Control, is present in the person. In the event that the subject of the test refuses to submit to such a test, the department may seek a court order to require him or her to submit to the test.</p> <p>b) Prior to ordering a test pursuant to subdivision (a), the chief medical officer shall ensure that the subject of the test receives pretest counseling. The counseling shall include:</p> <ol style="list-style-type: none"> (1) Testing procedures, effectiveness, reliability, and confidentiality. (2) The mode of transmission of HIV. (3) Symptoms of AIDS and AIDS-related complex. (4) Precautions to avoid exposure and transmission. <p>The chief medical officer shall also encourage the subject of the test to undergo voluntary testing prior to ordering a test. The chief medical officer shall also ensure that the subject of the test receives posttest counseling.</p> <p>c) The following procedures shall apply to testing conducted under this section:</p>

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	<p>(1) The withdrawal of blood 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 this section.</p> <p>(2) The chief medical officer shall order that the blood specimens be transmitted to a licensed medical laboratory which has been approved by the State Department of Health Services for the conducting of AIDS testing, and that tests, including all readily available confirmatory tests, be conducted thereon for medically accepted indications of exposure to or infection with HIV.</p> <p>(3) The subject of the test shall be notified face-to-face as to the results of the test.</p> <p>d) All counseling and notification of test results shall be conducted by one of the following:</p> <p>(1) A physician and surgeon who has received training in the subjects described in subdivision (b).</p> <p>(2) A registered nurse who has received training in the subjects described in subdivision (b).</p> <p>(3) A psychologist who has received training in the subjects described in subdivision (b) and who is under the purview of either a registered nurse or physician and surgeon who has received training in the subjects described in subdivision (b).</p> <p>(4) A licensed social worker who has received training in the subjects described in subdivision (b) and who is under the purview of either a registered nurse or physician and surgeon who has received training in the subjects described in subdivision (b).</p> <p>(5) A trained volunteer counselor who has received training in the subjects described in subdivision (b) and who is under the supervision of either a registered nurse or physician and surgeon who has received training in the subjects described in subdivision (b).</p> <p>e) The Department of the Youth Authority shall provide medical services appropriate for the diagnosis and treatment of those infected with HIV.</p> <p>f) The Department of the Youth Authority may operate separate housing facilities for wards and inmates who have tested positive for HIV infection and who continue to engage in activities which transmit HIV. These facilities shall be comparable to those of other wards and inmates with access to recreational and educational facilities, commensurate with the facilities available in the institution.</p> <p>g) Notwithstanding any other provision of law, the chief medical officer of a facility of the Department of the Youth Authority may do all of the following:</p> <p>(1) Disclose results of a test for the probable causative agent of AIDS to the superintendent or administrator of the facility where the test subject is confined.</p> <p>(2) When test results are positive, inform the test subject's known sexual partners or needle contacts in a Department of the Youth Authority facility</p>

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	<p>of the positive results, provided that the test subject's identity is kept confidential. All wards and inmates who are provided with this information shall be provided with the counseling described in subdivision (b).</p> <p>(3) Include the test results in the subject's confidential medical record which is to be maintained separate from other case files and records.</p> <p>h) Actions taken pursuant to this section shall not be subject to subdivisions (a) to (c), inclusive, of Section 120980 of the Health and Safety Code. In addition, the requirements of subdivision (a) of Section 120990 of the Health and Safety Code shall not apply to testing performed pursuant to this section.</p>
§5328	<p>Confidentiality of records; Authorized disclosures</p> <p>All information and records obtained in the course of providing services under Division 4 (commencing with Section 4000), Division 4.1 (commencing with Section 4400), Division 4.5 (commencing with Section 4500), Division 5 (commencing with Section 5000), Division 6 (commencing with Section 6000), or Division 7 (commencing with Section 7100), to either voluntary or involuntary recipients of services shall be confidential. Information and records obtained in the course of providing similar services to either voluntary or involuntary recipients prior to 1969 shall also be confidential. Information and records shall be disclosed only in any of the following cases:</p> <p>(a) In communications between qualified professional persons in the provision of services or appropriate referrals, or in the course of conservatorship proceedings. The consent of the patient, or his or her guardian or conservator shall be obtained before information or records may be disclosed by a professional person employed by a facility to a professional person not employed by the facility who does not have the medical or psychological responsibility for the patient's care.</p> <p>(b) When the patient, with the approval of the physician, licensed psychologist, social worker with a master's degree in social work, or licensed marriage and family therapist, who is in charge of the patient, designates persons to whom information or records may be released, except that nothing in this article shall be construed to compel a physician, licensed psychologist, social worker with a master's degree in social work, licensed marriage and family therapist, nurse, attorney, or other professional person to reveal information that has been given to him or her in confidence by members of a patient's family. Nothing in this subdivision shall be construed to authorize a licensed marriage and family therapist to provide services or to be in charge of a patient's care beyond his or her lawful scope of practice.</p> <p>(c) To the extent necessary for a recipient to make a claim, or for a claim to be made on behalf of a recipient for aid, insurance, or medical assistance to which he or she may be entitled.</p>

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	<p>(d) If the recipient of services is a minor, ward, or conservatee, and his or her parent, guardian, guardian ad litem, or conservator designates, in writing, persons to whom records or information may be disclosed, except that nothing in this article shall be construed to compel a physician, licensed psychologist, social worker with a master's degree in social work, licensed marriage and family therapist, nurse, attorney, or other professional person to reveal information that has been given to him or her in confidence by members of a patient's family.</p> <p>(e) For research, provided that the Director of Mental Health or the Director of Developmental Services designates by regulation, rules for the conduct of research and requires the research to be first reviewed by the appropriate institutional review board or boards. The rules shall include, but need not be limited to, the requirement that all researchers shall sign an oath of confidentiality as follows:</p> <p>Click here to view form</p> <p>(f) To the courts, as necessary to the administration of justice.</p> <p>(g) To governmental law enforcement agencies as needed for the protection of federal and state elective constitutional officers and their families.</p> <p>(h) To the Senate Committee on Rules or the Assembly Committee on Rules for the purposes of legislative investigation authorized by the committee.</p> <p>(i) If the recipient of services who applies for life or disability insurance designates in writing the insurer to which records or information may be disclosed.</p> <p>(j) To the attorney for the patient in any and all proceedings upon presentation of a release of information signed by the patient, except that when the patient is unable to sign the release, the staff of the facility, upon satisfying itself of the identity of the attorney, and of the fact that the attorney does represent the interests of the patient, may release all information and records relating to the patient except that nothing in this article shall be construed to compel a physician, licensed psychologist, social worker with a master's degree in social work, licensed marriage and family therapist, nurse, attorney, or other professional person to reveal information that has been given to him or her in confidence by members of a patient's family.</p> <p>(k) Upon written agreement by a person previously confined in or otherwise treated by a facility, the professional person in charge of the facility or his or her designee may release any information, except information that has been given in confidence by members of the person's family, requested by a probation officer charged with the evaluation of the person after his or her conviction of a crime if the professional person in</p>

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	<p>charge of the facility determines that the information is relevant to the evaluation. The agreement shall only be operative until sentence is passed on the crime of which the person was convicted. The confidential information released pursuant to this subdivision shall be transmitted to the court separately from the probation report and shall not be placed in the probation report. The confidential information shall remain confidential except for purposes of sentencing. After sentencing, the confidential information shall be sealed.</p> <p>(l) Between persons who are trained and qualified to serve on multidisciplinary personnel teams pursuant to subdivision (d) of Section 18951. The information and records sought to be disclosed shall be relevant to the prevention, identification, management, or treatment of an abused child and his or her parents pursuant to Chapter 11 (commencing with Section 18950) of Part 6 of Division 9.</p> <p>(m) To county patients' rights advocates who have been given knowing voluntary authorization by a client or a guardian ad litem. The client or guardian ad litem, whoever entered into the agreement, may revoke the authorization at any time, either in writing or by oral declaration to an approved advocate.</p> <p>(n) To a committee established in compliance with Section 4070.</p> <p>(o) In providing information as described in Section 7325.5. Nothing in this subdivision shall permit the release of any information other than that described in Section 7325.5.</p> <p>(p) To the county mental health director or the director's designee, or to a law enforcement officer, or to the person designated by a law enforcement agency, pursuant to Sections 5152.1 and 5250.1.</p> <p>(q) If the patient gives his or her consent, information specifically pertaining to the existence of genetically handicapping conditions, as defined in Section 125135 of the Health and Safety Code, may be released to qualified professional persons for purposes of genetic counseling for blood relatives upon request of the blood relative. For purposes of this subdivision, "qualified professional persons" means those persons with the qualifications necessary to carry out the genetic counseling duties under this subdivision as determined by the genetic disease unit established in the State Department of Health Services under Section 125000 of the Health and Safety Code. If the patient does not respond or cannot respond to a request for permission to release information pursuant to this subdivision after reasonable attempts have been made over a two-week period to get a response, the information may be released upon request of the blood relative.</p> <p>(r) When the patient, in the opinion of his or her psychotherapist, presents a serious danger of violence to a reasonably foreseeable victim or victims, then any of the information or records specified in this section may be</p>

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	<p>released to that person or persons and to law enforcement agencies as the psychotherapist determines is needed for the protection of that person or persons. For purposes of this subdivision, "psychotherapist" means anyone so defined within Section 1010 of the Evidence Code.</p> <p>(s)</p> <p>(1) To the designated officer of an emergency response employee, and from that designated officer to an emergency response employee regarding possible exposure to HIV or AIDS, but only to the extent necessary to comply with provisions of the Ryan White Comprehensive AIDS Resources Emergency Act of 1990 (P.L. 101-381; 42 U.S.C. Sec. 201).</p> <p>(2) For purposes of this subdivision, "designated officer" and "emergency response employee" have the same meaning as these terms are used in the Ryan White Comprehensive AIDS Resources Emergency Act of 1990 (P.L. 101-381; 42 U.S.C. Sec. 201).</p> <p>(3) The designated officer shall be subject to the confidentiality requirements specified in Section 120980, and may be personally liable for unauthorized release of any identifying information about the HIV results. Further, the designated officer shall inform the exposed emergency response employee that the employee is also subject to the confidentiality requirements specified in Section 120980, and may be personally liable for unauthorized release of any identifying information about the HIV test results.</p> <p>(t)</p> <p>(1) To a law enforcement officer who personally lodges with a facility, as defined in paragraph (2), a warrant of arrest or an abstract of such a warrant showing that the person sought is wanted for a serious felony, as defined in Section 1192.7 of the Penal Code, or a violent felony, as defined in Section 667.5 of the Penal Code. The information sought and released shall be limited to whether or not the person named in the arrest warrant is presently confined in the facility. This paragraph shall be implemented with minimum disruption to health facility operations and patients, in accordance with Section 5212. If the law enforcement officer is informed that the person named in the warrant is confined in the facility, the officer may not enter the facility to arrest the person without obtaining a valid search warrant or the permission of staff of the facility.</p> <p>(2) For purposes of paragraph (1), a facility means all of the following:</p> <p>(A) A state hospital, as defined in Section 4001.</p> <p>(B) A general acute care hospital, as defined in subdivision (a) of Section 1250 of the Health and Safety Code, solely with regard to information pertaining to a mentally disordered person subject to this section.</p>

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	<p>(C) An acute psychiatric hospital, as defined in subdivision (b) of Section 1250 of the Health and Safety Code.</p> <p>(D) A psychiatric health facility, as described in Section 1250.2 of the Health and Safety Code.</p> <p>(E) A mental health rehabilitation center, as described in Section 5675.</p> <p>(F) A skilled nursing facility with a special treatment program for chronically mentally disordered patients, as described in Sections 51335 and 72445 to 72475, inclusive, of Title 22 of the California Code of Regulations.</p> <p>(u) Between persons who are trained and qualified to serve on multidisciplinary personnel teams pursuant to Section 15610.55, 15753.5, or 15761. The information and records sought to be disclosed shall be relevant to the prevention, identification, management, or treatment of an abused elder or dependent adult pursuant to Chapter 13 (commencing with Section 15750) of Part 3 of Division 9.</p> <p>(v) The amendment of subdivision (d) enacted at the 1970 Regular Session of the Legislature does not constitute a change in, but is declaratory of, the preexisting law.</p> <p>(w) This section shall not be limited by Section 5150.05 or 5332.</p> <p>(x)</p> <p>(1) When an employee is served with a notice of adverse action, as defined in Section 19570 of the Government Code, the following information and records may be released:</p> <p>(A) All information and records that the appointing authority relied upon in issuing the notice of adverse action.</p> <p>(B) All other information and records that are relevant to the adverse action, or that would constitute relevant evidence as defined in Section 210 of the Evidence Code.</p> <p>(C) The information described in subparagraphs (A) and (B) may be released only if both of the following conditions are met:</p> <p>(i) The appointing authority has provided written notice to the consumer and the consumer's legal representative or, if the consumer has no legal representative or if the legal representative is a state agency, to the clients' rights advocate, and the consumer, the consumer's legal representative, or the clients' rights advocate has not objected in writing to the appointing authority within five business days of receipt of the notice, or the appointing authority, upon review of the objection has determined</p>

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	<p>that the circumstances on which the adverse action is based are egregious or threaten the health, safety, or life of the consumer or other consumers and without the information the adverse action could not be taken.</p> <p>(ii) The appointing authority, the person against whom the adverse action has been taken, and the person's representative, if any, have entered into a stipulation that does all of the following:</p> <p>(I) Prohibits the parties from disclosing or using the information or records for any purpose other than the proceedings for which the information or records were requested or provided.</p> <p>(II) Requires the employee and the employee's legal representative to return to the appointing authority all records provided to them under this subdivision, including, but not limited to, all records and documents from any source containing confidential information protected by this section, and all copies of those records and documents, within 10 days of the date that the adverse action becomes final except for the actual records and documents or copies thereof that are no longer in the possession of the employee or the employee's legal representative because they were submitted to the administrative tribunal as a component of an appeal from the adverse action.</p> <p>(III) Requires the parties to submit the stipulation to the administrative tribunal with jurisdiction over the adverse action at the earliest possible opportunity.</p> <p>(2) For the purposes of this subdivision, the State Personnel Board may, prior to any appeal from adverse action being filed with it, issue a protective order, upon application by the appointing authority, for the limited purpose of prohibiting the parties from disclosing or using information or records for any purpose other than the proceeding for which the information or records were requested or provided, and to require the employee or the employee's legal representative to return to the appointing authority all records provided to them under this subdivision, including, but not limited to, all records and documents from any source containing confidential information protected by this section, and all copies of those records and documents, within 10 days of the date that the adverse action becomes final, except for the actual records and documents or copies thereof that are no longer in the possession of the employee or the employee's legal representatives because they were submitted to the administrative tribunal as a component of an appeal from the adverse action.</p> <p>(3) Individual identifiers, including, but not limited to, names, social security numbers, and hospital numbers, that are not necessary for the prosecution or defense of the adverse action, shall not be disclosed.</p> <p>(4) All records, documents, or other materials containing confidential information protected by this section that has been submitted or otherwise</p>

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	<p>disclosed to the administrative agency or other person as a component of an appeal from an adverse action shall, upon proper motion by the appointing authority to the administrative tribunal, be placed under administrative seal and shall not, thereafter, be subject to disclosure to any person or entity except upon the issuance of an order of a court of competent jurisdiction.</p> <p>(5) For purposes of this subdivision, an adverse action becomes final when the employee fails to answer within the time specified in Section 19575 of the Government Code, or, after filing an answer, withdraws the appeal, or, upon exhaustion of the administrative appeal or of the judicial review remedies as otherwise provided by law.</p>
§14148.91	<p>Report to Legislature and Governor</p> <p>(a) 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 all of the following:</p> <ol style="list-style-type: none"> (1) The number of live births to women receiving prenatal care in the first trimester, in the second trimester, and in the third trimester, as well as an analysis of barriers to care to the extent available. (2) The number of maternal deaths by race and ethnic group. (3) The number of live births by county, race, and ethnic group. (4) The number of fetal deaths of infants over 20 weeks' gestation by race and ethnic group. (5) The number of infant deaths by county, race, and ethnic group from birth to 28 days postpartum. (6) The number of infant deaths by county, race, and ethnic group from 29 days postpartum to one year. (7) The number of live births under 2,500 grams and over 4,500 grams by race and ethnic group. (8) The number of live births under 1,500 grams by race and ethnic group. (9) The number of women eligible for prenatal, delivery, or postpartum care under Subchapter 19 (commencing with Section 1396) of Chapter 7 of Title 42 of the United States Code in the past year. (10) The source of payment for prenatal care and delivery. <p>(b) 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 basis, to the extent data are available, all of the following:</p> <ol style="list-style-type: none"> (1) The number of infants eligible for services under Subchapter 19 (commencing with Section 1396) of Chapter 7 of Title 42 of the United States Code. (2) The number of newborn babies screened or diagnosed with Fetal Alcohol Syndrome. (3) The number of babies born with drug dependencies, HIV infection, and sexually transmitted diseases. (4) Whether the mother smoked, consumed alcoholic beverages, or used controlled substances without a prescription, during pregnancy.

CA Welfare & Institution Code §	Section Code Language
	<p>(c)(1) The department, in consultation with the Legislative Analyst, shall contract, using appropriate state administrative funds, with an appropriate entity for a one-time, statistical survey of the income of mothers, utilizing a statistically valid sample linked to the birth certificate.</p> <p>(2) The State Department of Health Services shall not use more than one hundred thousand dollars (\$100,000) of administrative funds for the survey required by paragraph (1).</p> <p>(3) The income information required by paragraph (1) shall be categorized according to the following income categories:</p> <p>(A) Persons whose family income does not exceed 150 percent of the official federal poverty line.</p> <p>(B) Persons whose family income exceeds 150 percent of the official federal poverty line but does not exceed 185 percent of the official federal poverty line.</p> <p>(C) Persons whose family income exceeds 185 percent of the official federal poverty line but does not exceed 200 percent of the official federal poverty line.</p> <p>(D) Persons whose family income exceeds 200 percent of the official federal poverty line but does not exceed 225 percent of the official federal poverty line.</p> <p>(E) Persons whose family income exceeds 225 percent of the official federal poverty line.</p> <p>(F) Persons whose family income exceeds 250 percent of the official federal poverty line level but does not exceed 300 percent of the official federal poverty line.</p> <p>(d) The department shall, in addition to the information required by subdivision (a), report on trends in private insurance coverage of maternity care, to the extent the data is available.</p>
§14503.5	<p>Purpose of article; Legislative intent; Requirements of family planning programs</p> <p>(a) As used in this section:</p> <p>(1) "AIDS" means acquired immune deficiency syndrome.</p> <p>(2) "Human immunodeficiency virus" or "HIV" means the etiologic virus of AIDS.</p> <p>(3) "HIV test" means "HIV test" as defined in Section 120775 of the Health and Safety Code.</p> <p>(b) The purpose of this article is to ensure that state-funded family planning programs offer AIDS information and referral services to their client population.</p> <p>(c) It is the intent of the Legislature that family planning clients learn how to prevent the transmission of HIV, and that they take steps to prevent its transmission.</p> <p>(d) For purposes of this section, "clients" shall include, but shall not be limited to, all of the following:</p>

CA Welfare & Institution Code §	Section Code Language
	<p>(1) New clients to a family planning program.</p> <p>(2) Clients making annual visits to a family planning program.</p> <p>(3) Clients seeking pregnancy testing or family planning services.</p> <p>(4) Clients seeking diagnosis and treatment for sexually transmitted diseases.</p> <p>(e) Any family planning program that has a grant from the Office of Family Planning to provide family planning services shall do all of the following:</p> <p>(1) Provide brochures or other written materials to family planning clients that describe the high-risk conditions and behaviors for becoming infected with HIV and ways to prevent the transmission of HIV infection. To the maximum extent possible, the brochure or other written materials provided by any family planning program shall be culturally relevant and appropriate to the client populations served by the programs.</p> <p>(2) Provide, as needed, family planning clients with information about and referrals to local confidential or anonymous testing and counseling sites, AIDS education programs, and other supportive services.</p> <p>(f) Brochures and information required pursuant to subdivision (e) may be incorporated into existing information and health education programs provided by a family planning program.</p> <p>(g) The department shall make every effort to obtain brochures and other written materials from existing resources. Local family planning programs are encouraged to supplement the brochures with other available resources, to the extent that they deem necessary and appropriate.</p>

Business and Profession Code

CA Business & Profession Code §	Section Code Language
§18712	<p>Boxer or fighter health test</p> <p>a) Notwithstanding any other provision of law, any person applying for a license or the renewal of a license as a professional boxer or as a professional martial arts fighter shall present documentary evidence satisfactory to the commission that the applicant has been administered a test, by a laboratory in the United States that possesses a certificate under the Clinical Laboratory Improvement Act (42 U.S.C. Sec. 263a), to detect the presence of antibodies both to the human immunodeficiency virus (HIV) and to hepatitis C virus (HCV) and to detect the presence of the antigen of hepatitis B virus (HBV) within 30 days prior to the date of the application and that the results of all three tests are negative. A negative report for all three tests shall also be required of a professional boxer or professional martial arts fighter prior to competing in a match that will occur 180 days or more after the date of the tests submitted for the issuance or renewal of his or her license.</p> <p>b) Information received under this section and any other medical information about an applicant or licensee shall be confidential and not subject to discovery or subpoena. If the commission denies a license or the renewal of a license or suspends or revokes a license because of a licensee's HIV or HCV antibody status or HBV antigen status, it shall state only that the action was taken for medical reasons. An applicant or licensee may appeal the commission's denial, suspension, or revocation of a license under this section. The commission shall notify each person in writing of his or her right to a closed hearing for that appeal. An applicant or licensee must make a request for a hearing to the commission within 30 days of receiving notification from the commission of the applicant's or licensee's right to a hearing.</p>

Education Code	
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CA Education Code §	Section Code Language
§ 358	<p>Informational brochure</p> <p>(a) The State Department of Health Services shall prepare and publish a brochure that shall contain the following:</p> <p>(1) Information concerning the possibilities of genetic defects and diseases and a listing of centers available for the testing and treatment of genetic defects and diseases.</p> <p>(2) Information concerning acquired immunodeficiency syndrome (AIDS) and the availability of testing for antibodies to the probable causative agent of AIDS.</p> <p>(3) Information concerning domestic violence, including resources available to victims and a statement that physical, emotional, psychological, and sexual abuse, and assault and battery, are against the law.</p> <p>(b) The State Department of Health Services shall make the brochures available to county clerks who shall distribute a copy of the brochure to each applicant for a marriage license, including applicants for a confidential marriage license and notaries public receiving a confidential marriage license pursuant to Section 503. The department shall also make the brochure available to the Secretary of State who shall distribute a copy of the brochure to persons who qualify as domestic partners pursuant to Section 297.</p> <p>(c) The department shall prepare a lesbian, gay, bisexual, and transgender specific domestic abuse brochure and make the brochure available to the Secretary of State who shall print and make available the brochure, as funding allows, pursuant to Section 298.5.</p> <p>(d) Each notary public issuing a confidential marriage license under Section 503 shall distribute a copy of the brochure to the applicants for a confidential marriage license.</p> <p>(e) To the extent possible, the State Department of Health Services shall seek to combine in a single brochure all statutorily required information for marriage license applicants.</p>
§51934	<p>HIV/AIDS prevention education; Criteria; Contents</p> <p>a) A school district shall ensure that all pupils in grades 7 to 12, inclusive, receive HIV/AIDS prevention education 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.</p> <p>b) HIV/AIDS prevention education, whether taught by school district personnel or outside consultants, shall satisfy all of the criteria set forth in paragraphs (1) to (6), inclusive, of subdivision (b) and paragraphs (1) and (2) of subdivision (d) of Section 51933, shall accurately reflect</p>

CA Education Code §	Section Code Language
	<p>the latest information and recommendations from the United States Surgeon General, the federal Centers for Disease Control and Prevention, and the National Academy of Sciences, and shall include the following:</p> <ol style="list-style-type: none"> (1) Information on the nature of HIV/AIDS and its effects on the human body. (2) Information on the manner in which HIV is and is not transmitted, including information on activities that present the highest risk of HIV infection. (3) Discussion of 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/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. (4) Discussion of the public health issues associated with HIV/AIDS. (5) Information on local resources for HIV testing and medical care. (6) Development of refusal skills to assist pupils in overcoming peer pressure and using effective decisionmaking skills to avoid high-risk activities. (7) Discussion about societal views on HIV/AIDS, including stereotypes and myths regarding persons with HIV/AIDS. This instruction shall emphasize compassion for persons living with HIV/AIDS.

Family Code

CA Family Code §	Section Code Language
§358	<p data-bbox="418 331 771 363">Informational brochure</p> <p data-bbox="418 394 1341 457">The State Department of Health Services shall prepare and publish a brochure which shall contain the following:</p> <p data-bbox="418 464 1341 558">(1) Information concerning the possibilities of genetic defects and diseases and contain a listing of centers available for the testing and treatment of genetic defects and diseases.</p> <p data-bbox="418 564 1341 659">(2) Information concerning acquired immune deficiency syndrome (AIDS) and the availability of testing for antibodies to the probable causative agent of AIDS.</p>

California Code of Regulations – Title 8: Industrial Relations

Title 8 CCR	Code Language
8 CCR s47	<p>Method of Evaluation of Immunologic Disability.</p> <p>Testing may be specific for the infectious agent or may be nonspecific:</p> <p>A. Specific tests:</p> <ol style="list-style-type: none">1. Antigen and antibody tests that currently are available for the various types of viral hepatitis (A, B, C and delta).2. complement fixation titer for valley fever (coccidioidomycosis) to rule in or out active disseminated disease.3. Elisa testing for an HIV infection. If positive, the results shall be confirmed with a Western Blot test. <p>B. Nonspecific tests:</p> <ol style="list-style-type: none">1. White blood cell and differential count.2. Total lymphocyte count and counting of T and B lymphocytes, including subsets. Further testing of the immune system shall be based on strong clinical indications and shall be supported by an explanation by the physician of the need and purpose of the testing.

California Code of Regulations – Title 9: Rehabilitative and Developmental Services

Title 9 CCR	Code Language
9 CCR s7140.5	<p>Collection of Information.</p> <p>(a) The case record shall contain only information which is relevant and necessary to carry out the programs of the Department.</p> <p>(b) A Client Information Booklet which describes the kinds of information that may be requested from the applicant/client shall be provided and explained to all applicants at the initial interview and shall be annually reviewed with the client or his/her representative thereafter. The applicant's signature on the Application for Services (DR 222 dated January, 1991) acknowledges receipt of the booklet. The Client Information Booklet shall contain:</p> <ol style="list-style-type: none"> (1) The title, address, and telephone number of the Department employee who maintains the case record. (2) The name of the Division or individual within the Department who is requesting the information. (3) A statement as to whether the provision of each item of information requested is mandatory or voluntary. (4) An explanation of the consequences of not providing all or part of the requested information. (5) An explanation of the purpose or purposes for which the information is to be used. (6) The legal authority which authorizes the maintenance of the information. (7) A statement as to the applicant's or client's right to review the case record. (8) Any known or foreseeable interagency or intergovernmental transfer of the information which may be made. <p>(c) To the greatest extent practicable, information shall be collected directly from the applicant or client who is the subject of the information rather than from another source.</p> <p>(d) A completed form DR 264 (dated 1/90) Consent for Release of Personal/Confidential Information, and form DR 264A (dated July, 1993) Consent to Release Medical Information, which are incorporated by reference herein, shall as appropriate be required for each request to a third party to obtain the following personal information about an applicant/client:</p> <ol style="list-style-type: none"> (1) Employment reports from former employers. (2) School transcripts. (3) Drug and alcohol abuse information of record. (4) Public assistance information. (5) Criminal justice cumulative summaries. (6) Psychological resting information of record. (7) Veteran's Administration information. (8) Medical information of record. <p>(e) During the initial interview and whenever necessary, the Counselor</p>

Title 9 CCR	Code Language
	<p>shall complete form DR 264 (dated 1/90) or form DR 264A (dated July, 1993) to obtain applicant/client consent to contact each source of information about the applicant/client. Each release form shall:</p> <p>(1) Specifically state the information requested and to whom the request for information is directed.</p> <p>(2) Be signed and dated by the applicant/client authorizing each release. The signed release is used to verify that consent was obtained from the applicant/client or his/her authorized representative.</p> <p>(3) Be prepared in triplicate. The original of each signed release shall be attached to the appropriate request for information, a copy shall be given to the applicant/client, and a copy shall be filed in the case record with relevant correspondence.</p> <p>(4) Expire thirty (30) days from the date signed by the applicant/client unless the release specifies another expiration date.</p> <p>(f) In addition to the above, the DR 264A (dated July, 1993) Consent to Release Medical Information must include a specific authorization from the applicant/client to the provider of health care (see Civil Code section 56.05(d) for definition) to allow the release of the information to the Department. The consent for the Department to obtain medical information shall specifically state:</p> <p>"I authorize the above listed physician/facility to furnish to the Department of Rehabilitation my records containing medical history, treatment, and diagnosed mental and physical condition, including disabilities such as drug, alcohol, and psychiatric, or the result of any HIV test performed.</p> <p>This information will be included in my case record and used to assist in the determination of eligibility and, if eligible, subsequent vocational rehabilitation services. The Department of Rehabilitation may not disclose the information received without my signed consent for each disclosure unless the disclosure is specifically required or permitted by law. "</p> <p>"This consent, shall remain valid for 30 days unless otherwise specified.</p> <p>(Applicant/client's signature and date)"</p> <p>The applicant/client's signature must immediately follow the statement. The applicant/client shall be provided a copy of the authorization for each request.</p> <p>(g) Medical, psychological, and work evaluation examinations and information created by the provider at the request and expense of the Department do not require a consent signed by the applicant/client to release such information to the Department except medical information that would disclose the results of any HIV test performed.</p> <p>(h) The source of any information shall be identified in the case record unless the source is the applicant or client. If the source is an entity such as a governmental agency, a corporation, an association, or an individual, this requirement can be met by maintaining the name of the</p>

Title 9 CCR	Code Language
	<p>entity so long as the smallest responsible unit of that entity is reasonably identified.</p> <p>(i) Except as provided in section 7141.5, information in the case file shall remain in the file until the case is destroyed. No information in the case record shall be removed, destroyed, or altered for purposes of avoiding compliance with these regulations. The following information may be purged from the case record and destroyed:</p> <ul style="list-style-type: none">(1) Information in the case file that is irrelevant and unnecessary for carrying out the Rehabilitation program.(2) Handwritten Notes when the Notes have been transcribed into the case record.(3) Duplicative information.

California Code of Regulations – Title 17: Public Health	
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Title 17 CCR	Code Language
17 CCR s1053.5	<p>HIV Tests.</p> <p>The Department hereby adds to the tests that may be requested and reported pursuant to Business and Professions Code section 1246.5 any laboratory test or examination to identify HIV, a component of HIV, or antibodies or antigens to HIV when the test or examination has been approved by the United States Food and Drug Administration for sale to the public without a prescription in the form of an over-the-counter test kit.</p>
17 CCR s2643.5	<p>HIV Reporting by Health Care Providers.</p> <p>(a) Each health care provider that orders a laboratory test used to identify HIV, a component of HIV, or antibodies to or antigens of HIV shall submit the following to the laboratory performing the test:</p> <ol style="list-style-type: none"> (1) A pre-printed laboratory requisition form which includes all documentation as specified in 42 CFR 493.1105 (57 FR 7162, Feb. 28, 1992, as amended at 58 FR 5229, Jan. 19, 1993) and adopted in Business and Professions Code, Section 1220, or; (2) A completed Department of Health Services Counseling and Testing Program Confidential HIV Antibody Test laboratory requisition form, DHS 8257C (1/02), hereby incorporated by reference in this Article. <p>(b) The person authorized to order the laboratory test shall include the following when submitting information to the laboratory:</p> <ol style="list-style-type: none"> (1) Patient surname; and (2) Patient date of birth (2-digit month, 2-digit day, 4-digit year); and (3) Patient gender (male, female, transgender male-to-female, or transgender female-to-male); and (4) Date biological specimen was collected; and (5) Name, address, telephone number of the health care provider and the facility where services were rendered, if different. <p>(c) Each health care provider shall, within seven calendar days of receipt of a patient's confirmed HIV test and Partial Non-Name Code from a laboratory, complete the Non-Name Code (as specified in Section 2641.75) and report the confirmed HIV test to the local Health Officer for the jurisdiction where the health care provider facility is located. The report shall consist of a completed copy of the HIV/AIDS Case Report form.</p> <p>(d) HIV reporting by Non-Name Code to the local Health Officer, via submission of the HIV/AIDS Case Report, shall not supplant the reporting requirements in Article 1 of this Subchapter when a patient's medical condition progresses from HIV infection to an Acquired Immunodeficiency Syndrome (AIDS) diagnosis.</p> <p>(e) When reporting a confirmed HIV test, a health care provider shall not report a patient's personal information to the local Health Officer except</p>

Title 17 CCR	Code Language
	<p>for patients whose clinical conditions meet the AIDS reporting criteria, as specified in Article 1 of this Subchapter.</p> <p>(f) A health care provider who receives notification from an out-of-state laboratory of a confirmed HIV test for a California patient shall report the findings to the local Health Officer for the jurisdiction where the health care provider facility is located.</p> <p>(g) When a health care provider orders multiple HIV-related viral load tests for a patient, or receives multiple laboratory reports of a confirmed HIV test, the health care provider shall be required to submit only one HIV/AIDS Case Report, per patient, to the local Health Officer.</p> <p>(h) For all HIV-infected patients without an AIDS diagnosis, the health care provider shall maintain a system which cross-references patient data by using either the Partial Non-Name Code or the Non-Name Code. This system shall be used only to exchange information with the Local Health Officer in order to complete or unduplicate the HIV case reports.</p> <p>(i) Information reported pursuant to this Article is acquired in confidence and shall not be disclosed by the health care provider except as authorized by this Article, other state or federal law, or with the written consent of the individual to whom the information pertains or the legal representative of that individual.</p>
17 CCR s2643.10	<p>HIV Reporting by Laboratories.</p> <p>(a) The laboratory director or authorized designee shall create a Partial Non-Name Code (as specified in Section 2641.77) for each confirmed HIV test.</p> <p>(b) The laboratory director or authorized designee shall, within seven calendar days of determining a confirmed HIV test, report the confirmed HIV test to the Health Officer of the local health jurisdiction where the health care provider facility is located. The report shall include the:</p> <ol style="list-style-type: none"> (1) Partial Non-Name Code of the patient; and (2) Name, address, and telephone number of the health care provider and the facility that submitted the biological specimen to the laboratory, if different.; and (3) Name, address, and telephone number of the laboratory; and (4) Laboratory report number as assigned by the laboratory; and (5) Laboratory results of the test performed; and (6) Date the biological specimen was tested in the laboratory. <p>(c) A laboratory shall not transmit a patient's personal information to the local health department.</p> <p>(d) A laboratory that receives incomplete patient data from a health care provider for a biological specimen with a confirmed HIV test, shall contact the submitting health care provider to obtain the information required pursuant to Section 2643.5(b)(1)-(5), prior to reporting the</p>

Title 17 CCR	Code Language
	<p>confirmed HIV test to the local Health Officer.</p> <p>(e) A laboratory shall convey the patient's Partial Non-Name Code to the submitting health care provider when reporting confirmed HIV test results.</p> <p>(f) If a laboratory transfers a biological specimen to another laboratory for testing, the laboratory that first receives the biological specimen from the health care provider shall report confirmed HIV tests to the local Health Officer.</p> <p>(g) Laboratories shall not submit reports to the local health department for confirmed HIV tests for patients of an Alternative Testing Site or other anonymous HIV testing program, a blood bank, a plasma center, or for participants of a blinded and/or unlinked seroprevalence study.</p> <p>(h) When a California laboratory receives a biological specimen for testing from an out-of-state laboratory or health care provider, the California director of the laboratory shall ensure that a confirmed HIV test is reported to the state health department in the state where the biological specimen originated.</p> <p>(i) When a California laboratory receives a report from an out of state laboratory that indicates evidence of a confirmed HIV test for a California patient, the California laboratory shall notify the local Health Officer and health care provider in the same manner as if the findings had been made by the California laboratory.</p> <p>(j) Information reported pursuant to this Article is acquired in confidence and shall not be disclosed by the laboratory except as authorized by this Article, other state or federal law, or with the written consent of the individual to whom the information pertains or the legal representative of the individual.</p>
17 CCR s2643.15	<p>HIV Reporting by Local Health Officers.</p> <p>(a) The local Health Officer or his or her authorized designee shall match and unduplicate laboratory reports of confirmed HIV tests with the local health department HIV/AIDS registry database and with HIV/AIDS Case Reports received from health care providers and not entered into the database.</p> <p>(b) The Health Officer or his or her authorized designee shall, within 45 calendar days of receipt of a laboratory report of a confirmed HIV test, submit unduplicated HIV/AIDS Case Reports to the Department.</p> <p>(1) HIV/AIDS Case Reports shall be sent by courier service, U.S. Postal Service Express or Registered mail, or other traceable mail to the California Department of Health Services, Office of AIDS, HIV/AIDS Case Registry.</p> <p>(2) The local Health Officer or his or her authorized designee shall not report confirmed HIV tests for patients of an Alternative Testing Site or other anonymous counseling and testing program, a blood bank, a</p>

Title 17 CCR	Code Language
	<p>plasma center, or for participants of a blinded and/or unlinked HIV seroprevalence study.</p> <p>(c) The local Health Officer or his or her authorized designee shall not submit an HIV/AIDS Case Report to the Department for an infant under the age of 18 months, unless the infant's HIV infection is confirmed.</p> <p>(d) Information reported pursuant to this Article is acquired in confidence and shall not be disclosed by the local Health Officer or his or her authorized designee except as authorized by this Article, other state or federal law, or with the written consent of the individual to whom the information pertains or the legal representative of the individual.</p>
17 CCR s2643.20	<p>HIV Reporting Exemptions.</p> <p>Alternative Testing Sites; other anonymous or unlinked HIV testing programs; blood banks; plasma centers; and blinded and/or unlinked seroprevalence studies are exempt from these HIV reporting regulations.</p>

California Code of Regulations – Title 22: Social Security	
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Title 22 CCR	Code Language
22 CCR s41116	<p>Determining the Need for an HIV Test.</p> <p>(a) The chief medical officer shall take into consideration the following factors in ordering an HIV test of an inmate or other person who is the subject of the report filed, regardless of whether the report filed contains a request for HIV testing:</p> <p>(1) Whether an exchange of body fluids occurred which could have resulted in HIV infection. In determining whether an HIV test is warranted, "body fluids" considered for testing shall be limited to the fluids listed in section 41102 (a). Transmission of body fluids from one person to another shall have occurred either by:</p> <p>(A) Incidents involving injury to inmates or staff in which body fluids may have been exchanged.</p> <p>(B) Incidents involving injecting of any substances using sharps, needles, syringes, or tattooing instruments.</p> <p>(C) Incidents involving sexual activity which resulted in exchange of body fluids.</p> <p>(2) Whether the person displays medical conditions or clinical findings symptomatic of HIV infection.</p> <p>(3) Whether, as a result of the reported incident, the health of the institution staff or inmates may have been jeopardized.</p>
22 CCR s41147	<p>Laboratory Tests.</p> <p>(a) Laboratory tests to determine HIV infection shall be any FDA approved HIV test which detects infection by the probable causative agent of AIDS. Laboratory tests shall include, but not be limited to, the enzyme-linked immunosorbant assay (ELISA) using antigens derived from disrupted HIV. The ELISA kit instructions shall be followed. Initially reactive ELISA specimens shall be retested in accordance with the kit's instructions using the same specimen with the same manufacturer's kit.</p> <p>(b) Since falsely positive tests do occur, and the implications of a positive test are serious, additional tests which are more specific, such as the Western Blot or the immunofluorescent assay (IFA), shall be conducted following repeatedly reactive ELISA results. Reactive test results by ELISA shall not be reported without conducting one of the supplemental tests, and confirming that the result is specific and truly positive.</p>
22 CCR s41148	<p>Provision of Counseling.</p> <p>The chief medical officer shall provide for, or make provision for, face-to-face counseling to a law enforcement employee filing a report to test an inmate, or to an inmate filing a request to test another inmate, or to any potential test subject at the time the initial report or request is filed, at the time when tests are ordered, and at the time when test results are provided to the employee, inmate, or test subject. Specific topics in this counseling shall cover, but not be limited to, information covered in the "Guidelines for Human Immunodeficiency Virus (HIV) Education,</p>

Title 22 CCR	Code Language
	<p>Information and Testing in Correctional Facilities," December 1989, developed and distributed by the Department of Health Services, Office of AIDS. The provision of these guidelines are hereby incorporated by reference.</p>
22 CCR s41149	<p>Pre-Test Counseling Guidelines.</p> <p>(a) The pre-test counseling session shall be delivered by the chief medical officer, or his or her designee, and shall include, but not be limited to, a licensed physician or surgeon, registered nurse, or other health professional who has knowledge of the transmission, prevention, and etiology of HIV infection and AIDS. Any individual requiring counseling as provided for in section 41148 shall be given the opportunity to meet individually in private with the counselor to discuss personal questions about the HIV antibody test and its implications. Any written education material may be used which enhances or reinforces issues and/or topics covered in the pre-test session. In no way shall this educational material take the place of face-to-face HIV education counseling session.</p> <p>(b) A counselor shall be available after the pre-test session to answer or provide additional information regarding the HIV antibody test.</p> <p>(c) The counselor shall deliver a minimum of twenty minutes of pre-test information. During the pre-test session the counselor(s) should provide the client(s) with basic information about the HIV antibody test, interpretation of both positive and negative results and the possible consequences a test subject may confront by being identified as serologically positive. Information about reducing the risks of HIV transmission and exposure shall also be provided to the test subject during the pre-test counseling session. Topics and/or information covered during the pre-test counseling session shall include, but not be limited to, topics covered in the "Guidelines for Human Immunodeficiency Virus (HIV) Education, Information, and Testing in Correctional Facilities," December 1989, developed and distributed by the Department of Health Services, Office of AIDS.</p>
22 CCR s41150	<p>Post-Test Counseling Guidelines.</p> <p>(a) The post-test counseling session shall be presented by the chief medical officer, or his or her designee, and shall include, but not be limited to, a licensed physician or surgeon, registered nurse, or other health professional who has knowledge of the transmission, prevention, and etiology of HIV infection and AIDS. This session shall be provided in a private setting with the door closed to any individual requiring counseling as provided for in section 41148. If the inmate poses a threat to others, privacy should be provided to the extent possible. If a deputy must be present during the counseling session, confidentiality of the information discussed and inmates' responses shall be maintained. Before test results are disclosed, the counselor shall confirm that the test results pertain to the corresponding test subject.</p>

Title 22 CCR	Code Language
	<p>(b) The counselor providing the post-test results and education shall be prepared to discuss the meaning of the reactive ELISA and the results of the supplemental test at the time the results are presented to the test subject.</p> <p>(c) The counselor shall deliver at least 15 minutes of post-test counseling and information in person to those test subjects who tested nonreactive (negative) on the HIV antibody test. This information shall include appropriate information on the test result and reducing the risk of exposure to HIV. Topics and information covered shall include, but not be limited to, information covered in the "Guidelines for Human Immunodeficiency Virus (HIV) Education, Information, and Testing in Correctional Facilities," December 1989, developed and distributed by the Department of Health Services, Office of AIDS.</p> <p>(d) The counselor shall deliver at least 30 minutes of post-test counseling to those test subjects who repeatedly tested reactive (positive) on the HIV antibody test and positive on the supplemental confirmatory tests. The counselor shall also assess the test subject's reaction to the test result to determine if referral to mental health services is needed. The test subject shall be reminded that a positive HIV antibody test result does not mean the test subject has AIDS; however, the importance of this result should not be minimized.</p> <p>(e) When ending the post-test counseling session, the counselor shall review the most salient points raised during the interview. These may include the meaning of the test result, particular concerns, e.g., consideration of parenthood, telling others, etc., confidentiality of the test, risk reduction behaviors and appropriate referral resources.</p>