

Wisconsin

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April 8, 2011

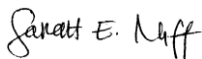
To the Reader:

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>

Wisconsin

A Quick Reference Guide for Clinicians to Wisconsin HIV Testing Laws

April 8, 2011

This Quick Reference Guide for clinicians is a summary of relevant Wisconsin 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 Wisconsin HIV testing laws, please refer to the section of the Compendium that follows this Quick Reference Guide.

Informed Consent

- Consent may be through the opt-out process, must be documented, and must meet the following conditions (see *State Policies Relating to HIV Testing, 2011*, below, for exceptions):
 - Must notify the person or the person's authorized representative that he or she may decline the HIV test and that the person will be subjected to an HIV test unless the test is declined.
 - Must offer a brief oral or written explanation/description of HIV infection, HIV test results, requirements for reporting results, treatment options for a positive HIV test result, and AIDS service organizations and the services they provide to persons who have a positive HIV test result.
 - Must notify that if the person or the person's authorized representative declines to have an HIV test performed, the health care provider may not use the fact that the person declined an HIV test as a basis for denying services or treatment, other than an HIV test, to the person.
 - Must provide an opportunity to ask questions and to decline the HIV test.
 - Must verify understanding that an HIV test will be performed on the person and that the decision regarding whether to have an HIV test performed is not coerced or involuntary.

Counseling

- No specific provisions regarding counseling were found (counseling policies repealed April, 2010).

Provisos of Testing

- **Anonymous**
 - Anonymous testing is available at designated anonymous testing sites.
- **Rapid**
 - No specific provisions regarding rapid testing were found.
- **Routine**
 - No specific provisions regarding routine testing were found.

Disclosure

- Notification of sexual partners of a possible exposure to HIV is encouraged but not required.

Minor/Adolescent Testing

- Persons 14 years or older or their authorized representatives may consent to HIV testing and treatment.

Wisconsin

Perinatal Quick Reference Guide:

A Guide to Wisconsin Perinatal HIV Testing Laws for Clinicians

April 8, 2011

This Perinatal Quick Reference Guide for clinicians is a summary of relevant Wisconsin 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 Wisconsin 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

- **Initial visit**
 - No specific provisions regarding initial visit prenatal testing were found.
- **Third trimester**
 - No specific provisions regarding third trimester prenatal testing were found.

Labor & Delivery

- No specific provisions regarding labor & delivery testing were found.

Neonatal

- No specific provisions regarding neonatal testing were found.

Other

- N/A

Wisconsin State Policies Relating to HIV Testing, 2011

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Wisconsin Statutes [WS]

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Wisconsin Administrative Code [WAC]

Chapter HFS: Health and Family Services..... Pages 41-44
Chapter Ins: Insurance Commissioner..... Pages 45-46
Chapter RL: Regulation and Licensing..... Page 47

	Policy Category	Type	Section Code(s)
RESTRICTIONS/MANDATES	Restrictions on use of HIV test	Testing not required for employment/hiring purposes for state agencies	WS §103.15
		Testing prohibited for determining group insurance eligibility	WS §631.90
		Prohibited sale of tests or test kits not approved by the state epidemiologist	WS §252.15(5r)
	Mandatory testing within the criminal justice system	Persons charged with a sex offense	WS §968.38
		Juveniles charged with a sex offense	WS §938.296
		Potential transmission to victims	WS §938.346
		Occupational exposure – any employee may request testing of source patient in cases of exposure	WS §252.15(2)(a)7
	Mandatory testing outside of the criminal justice system	Occupational exposure – health care workers, EMS, corrections, etc; schools may request testing of source patient in cases of exposure	WS § 252.15 (5g)

		Good samaritan may request testing of accident victim if significant exposure to body fluid occurred in rendering aid	WS § 252.15 (5g) (a) 6
		Procedures for refused consent – court orders	WS § 252.15 (5j)
		Blood, organ, anatomical donations	WS §252.13 WS §252.133 WS §252.15(2)(a)
		Department of regulation and licensing may require boxer to submit to HIV examination	WAC RL 114.09
PRE-TESTING	Mandatory offering of HIV/AIDS information and/or testing	Insurance companies must provide printed factual materials on HIV/AIDS before testing	WAC Ins 3.53
		Substance abuse services must provide patients with HIV information	WAC HFS 75.03
		Residents of residential care centers for youth must be provided HIV information	WAC HFS 52.41
	Informed consent	Consent may be through the opt-out process (opportunity to decline), must be documented in medical record, and must meet certain conditions (see WS §252.15 (2m) (a) (1)-(5))	WS §252.15 (2m) (a) WS §252.15 (4) (b)
		Exceptions to required consent	WS §252.133 WS §252.15 (2m) (b)
		Consent required for insurance testing	WAC Ins 3.53
	Counseling requirements	No related laws (counseling requirements eliminated April, 2010)	
Anonymous testing	State department of health must sponsor anonymous testing sites	WS §252.12	
POST-TESTING	Disclosure/confidentiality	HIV test results as confidential	WS §252.12
		Exceptions to confidentiality	WS § 252.15 (3m)
		Partner notification – provider to counsel test subject to notify any possible exposed contacts	WS §252.12
		Disclosure to any alleged exposed individual in cases of requested source patient testing	WS § 252.15 (3m) (f)

		Disclosure to temporary caretaker of HIV status of children in temporary protective custody	WS §48.371
		Disclosure to funeral directors	WS §252.15(5)(a)7
		Penalties for unauthorized disclosure of HIV results – discharge or suspension	WS §252.15(10)
	Reporting	Name-based reporting	WS §252.15(7) WAC HFS 145.04
OTHER	Testing of pregnant women and/or newborns	No related laws found	
	Testing of minors/adolescents	Minors may consent to STD services	WS §252.11
		Minors 14 years or older and their authorized representatives have authority to consent to HIV testing and treatment and authorize disclosure of results	WS §252.15 (2m) (c)
	Rapid HIV testing	No related laws found	
	Training and education of health care providers	New employees of residential care centers for youth must be HIV educated before working independently with residents	WAC HFS 52.12

Recommended Resources

The Updated Wisconsin Statutes and Annotations

<http://www.legis.state.wi.us/rsb/stats.html>

Wisconsin Administrative Code

<http://nxt.legis.state.wi.us/link.asp?code/top>

Wisconsin Department of Health and Family Services

<http://www.dhfs.state.wi.us/>

Chapter 48: Children's Code

WI Title 48 Code §	Code Language
§ 48.371	<p>Access to certain information by substitute care provider.</p> <p>(1) If a child is placed in a foster home, treatment foster home, group home, or residential care center for children and youth or in the home of a relative other than a parent, including a placement under s. 48.205 or 48.21, the agency, as defined in s. 48.38 (1) (a), that placed the child or arranged for the placement of the child shall provide the following information to the foster parent, treatment foster parent, relative, or operator of the group home or residential care center for children and youth at the time of placement or, if the information has not been provided to the agency by that time, as soon as possible after the date on which the agency receives that information, but not more than 2 working days after that date:</p> <p>(a) Results of an HIV test as defined in s. 252.01 (2m) of the child as provided under s. 252.15 (3m) (d) 15., including results included in a court report or permanency plan. At the time that the HIV test results are provided, the agency shall notify the foster parent, treatment foster parent, relative, or operator of the group home or residential care center for children and youth of the confidentiality requirements under s. 252.15 (6).</p> <p>(b) Results of any tests of the child to determine the presence of viral hepatitis, type B, including results included in a court report or permanency plan.</p> <p>(c) Any other medical information concerning the child that is necessary for the care of the child.</p> <p>(3) At the time of placement of a child in a foster home, treatment foster home, group home, or residential care center for children and youth or in the home of a relative other than a parent or, if the information is not available at that time, as soon as possible after the date on which the court report or permanency plan has been submitted, but no later than 7 days after that date, the agency, as defined in s. 48.38 (1) (a), responsible for preparing the child's permanency plan shall provide to the foster parent, treatment foster parent, relative, or operator of the group home or residential care center for children and youth information contained in the court report submitted under s. 48.33 (1), 48.365 (2g), 48.425 (1), 48.831 (2) or 48.837 (4) (c) or permanency plan submitted under s. 48.355 (2e), 48.38, 48.43 (1) (c) or (5) (c), 48.63 (4) or (5) (c) or 48.831 (4) (e) relating to findings or opinions of the court or agency that prepared the court report or permanency plan relating to any of the following:</p> <p>(a) Any mental, emotional, cognitive, developmental, or behavioral disability of the child.</p>

WI Title 48 Code §	Code Language
	<p>(b) Any involvement of the child in any criminal gang, as defined in s. 939.22 (9), or in any other group in which any child was traumatized as a result of his or her association with that group.</p> <p>(c) Any involvement of the child in any activities that are harmful to the child's physical, mental, or moral well-being.</p> <p>(d) Any involvement of the child, whether as victim or perpetrator, in sexual intercourse or sexual contact in violation of s. 940.225, 948.02, 948.025, or 948.085, prostitution in violation of s. 944.30, sexual exploitation of a child in violation of s. 948.05, or causing a child to view or listen to sexual activity in violation of s. 948.055, if the information is necessary for the care of the child or for the protection of any person living in the foster home, treatment foster home, group home, or residential care center for children and youth.</p>

Chapter 103: Employment Regulations
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WI Chap 103 Code §	Code Language
§ 103.15	<p>Restrictions on use of an HIV test.</p> <p>(1) In this section:</p> <p>(a) "Employer" includes the state, its political subdivisions and any office, department, independent agency, authority, institution, association, society or other body in state or local government created or authorized to be created by the constitution or any law, including the legislature and the courts.</p> <p>(am) "HIV" means any strain of human immunodeficiency virus, which causes acquired immunodeficiency syndrome.</p> <p>(b) "HIV infection" means the pathological state produced by a human body in response to the presence of HIV.</p> <p>(bm) "HIV test" has the meaning given in s. 252.01 (2m).</p> <p>(c) "State epidemiologist" means the individual designated by the secretary of health and family services as the individual in charge of communicable disease control for this state.</p> <p>(2) Notwithstanding ss. 227.01 (13) and 227.10 (1), unless the state epidemiologist determines and the secretary of health and family services declares under s. 250.04 (1) or (2) (a) that individuals who have HIV infections may, through employment, provide a significant risk of transmitting HIV to other individuals, no employer or agent of an employer may directly or indirectly:</p> <p>(a) Solicit or require an HIV test as a condition of employment of any employee or prospective employee.</p> <p>(b) Affect the terms, conditions or privileges of employment or terminate the employment of any employee who obtains an HIV test as defined in s. 252.01 (2m).</p> <p>(3) Any agreement by an employer or agent of the employer and an employee or prospective employee offering employment or any pay or benefit to an employee or prospective employee in return for taking an HIV test is prohibited, except as provided under sub. (2) (intro.).</p>

Chapter 252: Communicable Diseases

WI Chap 252 Code §	Code Language
§ 252.01	<p>Definitions</p> <p>(1c) "Advanced practice nurse prescriber" means an advanced practice nurse who is certified under s. 441.16 (2) to issue prescription orders.</p> <p>(1g) "First responder" means a person who, as a condition of employment or as a member of an organization that provides emergency medical care before hospitalization, provides emergency medical care to a sick, disabled or injured individual before the arrival of an ambulance, but who does not provide transportation for a patient.</p> <p>(1m) "HIV" means any strain of human immunodeficiency virus, which causes acquired immunodeficiency syndrome.</p> <p>(2) "HIV infection" means the pathological state produced by a human body in response to the presence of HIV.</p> <p>(2m) "HIV test" means a test for the presence of HIV or an antibody to HIV.</p> <p>(3) "Municipality" means any city, village or town.</p> <p>(4) "Peace officer" has the meaning given in s. 939.22 (22).</p> <p>(6) "State epidemiologist" means the individual appointed by the state health officer under s. 250.02 (1) as the state epidemiologist for acute and communicable diseases.</p> <p>(7) "State patrol officer" means an officer of the state traffic patrol under s. 110.07 (1) (a).</p> <p>(8) "Validated HIV test result" means a result of an HIV test that meets the validation requirements determined to be necessary by the state epidemiologist.</p>
§ 252.11	<p>Sexually transmitted disease.</p> <p>(1) In this section, "sexually transmitted disease" means syphilis, gonorrhea, chlamydia and other diseases the department includes by rule.</p> <p>(1m) A physician or other health care professional called to attend a person infected with any form of sexually transmitted disease, as specified in rules promulgated by the department, shall report the disease to the local health officer and to the department in the manner directed by the department in writing on forms furnished by the department. A physician may treat a minor infected with a sexually transmitted disease or examine and diagnose a minor for the presence of such a disease without obtaining the consent of the minor's parents or guardian. The physician shall incur no civil liability solely by reason of the lack of consent of the minor's parents or guardian.</p>

WI Chap 252 Code §	Code Language
	<p>(5m) A health care professional, as defined in s. 968.38 (1) (a), acting under an order of a court under s. 938.296 (4) or 968.38 (4) may, without first obtaining informed consent to the testing, subject an individual to a test or a series of tests to ascertain whether that individual is infected with a sexually transmitted disease. No sample used for performance of a test under this subsection may disclose the name of the test subject.</p> <p>(7) Reports, examinations and inspections and all records concerning sexually transmitted diseases are confidential and not open to public inspection, and may not be divulged except as may be necessary for the preservation of the public health, in the course of commitment proceedings under sub. (5), or as provided under s. 938.296 (4) or 968.38 (4). If a physician or advanced practice nurse prescriber has reported a case of sexually transmitted disease to the department under sub. (4), information regarding the presence of the disease and treatment is not privileged when the patient, physician, or advanced practice nurse prescriber is called upon to testify to the facts before any court of record.</p>
§ 252.12	<p>HIV and related infections, including hepatitis C virus infections; services and prevention.</p> <p>(1) DEFINITIONS.</p> <p>In this section:</p> <p>(b) "AIDS service organizations" means nonprofit corporations or public agencies that provide, or arrange for the provision of, comprehensive services to prevent HIV infection and comprehensive health and social services for persons who have HIV infection, and that are designated as such by the department under sub. (4).</p> <p>(c) "Nonprofit corporation" means a nonstock corporation organized under ch. 181 that is a nonprofit corporation, as defined in s. 181.0103 (17).</p> <p>(d) "Organization" means a nonprofit corporation or a public agency which proposes to provide services to individuals with acquired immunodeficiency syndrome.</p> <p>(e) "Public agency" means a county, city, village, town or school district or an agency of this state or of a county, city, village, town or school district.</p> <p>(2) DISTRIBUTION OF FUNDS.</p> <p>(a) HIV and related infections, including hepatitis C virus infections; services. From the appropriations under s. 20.435 (1) (a) and (5) (am), the department shall distribute funds for the provision of services to individuals with or at risk of contracting HIV infection, as follows:</p> <p>1. 'Partner referral and notification.</p> <p>The department shall contact an individual known to have received an HIV infection and encourage him or her to refer for counseling, HIV testing, and, if appropriate, testing for hepatitis C virus infection any person with whom the individual has had sexual relations or has shared intravenous</p>

WI Chap 252 Code §	Code Language
	<p>equipment.</p> <p>2. 'Grants to local projects.</p> <p>The department shall make grants to applying organizations for the provision of HIV and related infection prevention information, the establishment of counseling support groups and the provision of direct care to persons with HIV infection, including those persons with hepatitis C virus infection.</p> <p>3. 'Statewide public education campaign.</p> <p>The department shall promote public awareness of the risk of contracting HIV and related infections and measures for HIV and related infections protection by development and distribution of information through clinics providing family planning services, as defined in s. 253.07 (1) (b), offices of physicians and clinics for sexually transmitted diseases and by newsletters, public presentations or other releases of information to newspapers, periodicals, radio and television stations and other public information resources. The information shall be targeted at individuals whose behavior puts them at risk of contracting HIV and related infections and shall encompass the following topics:</p> <ul style="list-style-type: none"> a. HIV infection and related infections. b. Means of identifying whether or not individuals may be at risk of contracting HIV and related infections. c. Measures individuals may take to protect themselves from contracting HIV and related infections. d. Locations for procuring additional information or obtaining HIV testing services. <p>4. 'Information network.</p> <p>The department shall establish a network to provide information to local health officers and other public officials who are responsible for HIV infection and related infection prevention and training.</p> <p>5. 'HIV seroprevalence studies.</p> <p>The department shall perform HIV tests and, if appropriate, tests for the presence of related infections and shall conduct behavioral surveys among population groups determined by the department to be highly at risk of becoming infected with or transmitting HIV and related infections. Information obtained shall be used to develop targeted HIV infection and related infection prevention efforts for these groups and to evaluate the states prevention strategies.</p>

WI Chap 252 Code §	Code Language
	<p>6. 'Grants for targeted populations and intervention services.</p> <p>The department shall make grants to those applying organizations that the department determines are best able to contact individuals who are determined to be highly at risk of contracting HIV for the provision of HIV and related infection information and intervention services.</p> <p>7. 'Contracts for counseling and laboratory testing services.</p> <p>The department shall distribute funding in each fiscal year to contract with organizations to provide, at alternate testing sites, anonymous or confidential counseling services for HIV, laboratory HIV testing services and, if appropriate, laboratory testing services for the presence of related viruses.</p> <p>8. 'Mike Johnson life care and early intervention services grants.</p> <p>The department shall award not more than 2,569,900 in fiscal year 2005-06 and each fiscal year thereafter in grants to applying organizations for the provision of needs assessments; assistance in procuring financial, medical, legal, social and pastoral services; counseling and therapy; homecare services and supplies; advocacy; and case management services. These services shall include early intervention services. The department shall also award not more than 74,000 in each year from the appropriation under s. 20.435 (7) (md) for the services under this subdivision. The state share of payment for case management services that are provided under s. 49.45 (25) (be) to recipients of medical assistance shall be paid from the appropriation under s. 20.435 (5) (am)</p> <p>9. 'Grant for family resource center.</p> <p>The department shall award a grant to develop and implement an African-American family resource center in the city of Milwaukee that targets activities toward the prevention and treatment of HIV infection and related infections, including hepatitis C virus infection, of minority group members, as defined in s. 560.036 (1) (f)</p> <p>(c) HIV prevention grants.</p> <p>1. From the appropriation under s. 20.435 (3) (md), the department shall award to applying nonprofit corporations or public agencies up to 75,000 in each fiscal year, on a competitive basis, as grants for services to prevent HIV. Criteria for award of the grants shall include all of the following:</p> <p>a. The scope of proposed services, including the proposed targeted population and numbers of persons proposed to be served.</p> <p>b. The proposed methodology for the prevention services, including distribution and delivery of information and appropriateness of the message provided.</p>

WI Chap 252 Code §	Code Language
	<p>c. The qualifications of the applicant nonprofit corporation or public agency and its staff.</p> <p>d. The proposed allocation of grant funds to the nonprofit corporation or public agency staff and services.</p> <p>e. The proposed method by which the applicant would evaluate the impact of the grant funds awarded.</p> <p>2. From the appropriation under s. 20.435 (5) (am), the department shall award 75,000 in each fiscal year as grants for services to prevent HIV infection and related infections, including hepatitis C virus infection. Criteria for award of the grants shall include the criteria specified under subd. 1. The department shall award 60% of the funding to applying organizations that receive funding under par. (a) 8. and 40% of the funding to applying community-based organizations that are operated by minority group members, as defined in s. 560.036 (1) (f)</p> <p>3. From the appropriation under s. 20.435 (5) (am), the department shall award to the African American AIDS task force of the Black Health Coalition of Wisconsin, Inc., 25,000 in each fiscal year as grants for services to prevent HIV infection and related infections, including hepatitis C infection.</p> <p>(3) CONFIDENTIALITY OF INFORMATION.</p> <p>The results of any test performed under sub. (2) (a) 5. are confidential and may be disclosed only to the individual who receives a test or to other persons with the informed consent of the test subject. Information other than that released to the test subject, if released under sub. (2) (a) 5., may not identify the test subject.</p> <p>(4) DESIGNATION OF AIDS SERVICE ORGANIZATIONS.</p> <p>The department shall designate AIDS service organizations and specify the geographical area of the state in which they are designated to provide services.</p>
§ 252.13	<p>HIV tests.</p> <p>(1) In this section, "autologous transfusion" means the receipt by an individual, by transfusion, of whole blood, blood plasma, a blood product or a blood derivative, which the individual has previously had withdrawn from himself or herself for his or her own use.</p> <p>(1m) Except as provided under sub. (3), any blood bank, blood center or plasma center in this state that purchases or receives whole blood, blood plasma, a blood product or a blood derivative shall, prior to its distribution or use and in accordance with the conditions under of s. 252.15 (2m) (a), subject that blood, plasma, product or derivative to an HIV test. This subsection does not apply to a blood bank that purchases or receives whole</p>

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	<p>blood, blood plasma, a blood product or a blood derivative from a blood bank, blood center or plasma center in this state if the whole blood, blood plasma, blood product or blood derivative has previously been subjected to an HIV test.</p> <p>(1r) For the purposes of this section, the state epidemiologist shall make separate findings of medical significance and sufficient reliability for an HIV test or a series of HIV tests for each of the following purposes:</p> <p>(a) Subjecting whole blood, blood plasma, a blood product or a blood derivative to a test prior to distribution or use of the whole blood, blood plasma, blood product or blood derivative.</p> <p>(b) Providing disclosure of test results to the subject of the test.</p> <p>(2) If performance of a test under sub. (1m) yields a validated test result positive for the presence of HIV, antigen or nonantigenic products of HIV or an antibody to HIV, the whole blood, blood plasma, blood product or blood derivative so tested with this result may not be distributed or used except for purposes of research or as provided under sub. (5)</p> <p>(3) If a medical emergency, including a threat to the preservation of life of a potential donee, exists under which whole blood, blood plasma, a blood product, or a blood derivative that has been subjected to HIV testing under sub. (1m) is unavailable, the requirement of sub. (1m) shall not apply.</p> <p>(4) Subsections (1m) and (2) do not apply to the extent that federal law or regulations require that a blood bank, blood center or plasma center administer an HIV test to whole blood, blood plasma, a blood product, or a blood derivative.</p> <p>(5) Whole blood, blood plasma, a blood product, or a blood derivative described under sub. (2) that is voluntarily donated solely for the purpose of an autologous transfusion may be distributed to or used by the person who has donated the whole blood, blood plasma, blood product or blood derivative. No person other than the person who has donated the whole blood, blood plasma, blood product or blood derivative may receive or use the whole blood, blood plasma, blood product or blood derivative unless it has been subjected to an HIV test under sub. (1m) and performance of the test has yielded a negative, validated HIV test result.</p>
§ 252.133	<p>HIV testing for anatomical gifts.</p> <p>(1) Except as provided in subd. (2), a health care provider, as defined in s. 252.15 (1) (ar), who procures, processes, distributes or uses a human body part or human tissue donated as specified under s. 157.06 (6) (a) or (b) shall, have an HIV test performed on the donor of the body part or tissue in order to assure medical acceptability of the gift for the purpose intended. The health care provider shall use an HIV test that yields a validated HIV test result. If the validated HIV test result of the donor is positive, the</p>

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	<p>human body part or human tissue donated for use or proposed for donation may not be used.</p> <p>(2) If as determined by the attending physician of a potential donee of a human body part or human tissue a medical emergency exists under which a human body part or human tissue that has been subjected to testing under subd. (1) is unavailable, including a threat to the preservation of the life of the potential donee, the requirement of subd. (1) does not apply.</p>
§ 252.14	<p>Discrimination related to acquired immunodeficiency syndrome.</p> <p>(2) No health care provider, peace officer, fire fighter, correctional officer, state patrol officer, jailer or keeper of a jail or person designated with custodial authority by the jailer or keeper, home health agency, inpatient health care facility or person who has access to a validated HIV test result may do any of the following with respect to an individual who has acquired immunodeficiency syndrome or has a positive, validated HIV test result, solely because the individual has HIV infection or an illness or medical condition that is caused by, arises from, or is related to HIV infection:</p> <p>(a) Refuse to treat the individual, if his or her condition is within the scope of licensure or certification of the health care provider, home health agency or inpatient health care facility.</p> <p>(am) If a peace officer, fire fighter, correctional officer, state patrol officer, jailer or keeper of a jail or person designated with custodial authority by the jailer or keeper, refuse to provide services to the individual.</p> <p>(b) Provide care to the individual at a standard that is lower than that provided other individuals with like medical needs.</p> <p>(bm) If a peace officer, fire fighter, correctional officer, state patrol officer, jailer or keeper of a jail or person designated with custodial authority by the jailer or keeper, provide services to the individual at a standard that is lower than that provided other individuals with like service needs.</p> <p>(c) Isolate the individual unless medically necessary.</p> <p>(d) Subject the individual to indignity, including humiliating, degrading or abusive treatment.</p> <p>(2m) If a person declines to be subjected to an HIV test, a health care provider may not use the fact that the person declined an HIV test as a basis for denying services or treatment, other than an HIV test, to the person.</p> <p>(3). A health care provider, home health agency or inpatient health care facility that treats an individual who has an HIV infection or acquired immunodeficiency syndrome shall develop and follow procedures that shall ensure continuity of care for the individual in the event that his or her</p>

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	<p>condition exceeds the scope of licensure or certification of the provider, agency or facility.</p> <p>(4) Any person violating sub. (2) is liable to the patient for actual damages and costs, plus exemplary damages of up to \$10,000 for an intentional violation. In determining the amount of exemplary damages, a court shall consider the ability of a health care provider who is an individual to pay exemplary damages.</p>
§ 252.15	<p>Restrictions on use of an HIV test.</p> <p>(1) DEFINITIONS.</p> <p>In this section:</p> <p>(ab) Repealed</p> <p>(ac) "Authorized representative" means any of the following:</p> <ol style="list-style-type: none"> 1. A health care agent, as defined under s. 155.01 (4), acting in accordance with a power of attorney for health care that is in effect under s. 155.05 (2). 2. A person named by the court under ch. 48 or 54 or ch. 880, 2003 stats., having the duty and authority of guardianship. 3. A parent or legal custodian of a person who is under 14 years of age. 4. For a person who is unable to communicate due to a medical condition, the person's closest living relative or another individual with whom the person has a meaningful social and emotional relationship. <p>(ad) "Correctional officer" has the meaning given in s. 301.28 (1)</p> <p>(af) "Emergency medical technician" has the meaning given in s. 146.50 (1)</p> <p>(e)</p> <p>(aj) "Fire fighter" has the meaning given in s. 102.475 (8) (b)</p> <p>(am) "Health care professional" means a physician or physician assistant who is licensed under ch. 448 or a registered nurse or licensed practical nurse who is licensed under ch. 441</p> <p>(ar) "Health care provider" means any of the following:</p> <ol style="list-style-type: none"> 1. A person or entity that is specified in s. 146.81 (1), but does not include a massage therapist or bodyworker issued a certificate under ch. 460 2. A home health agency. 3. An employee of the Mendota Mental Health Institute or the Winnebago Mental Health Institute. <p>(cm) "Home health agency" has the meaning given in s. 50.49 (1) (a)</p>

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	<p>(d) Repealed</p> <p>(e) Repealed</p> <p>(eg) "Relative" means a spouse, parent, grandparent, stepparent, brother, sister, first cousin, nephew or niece; or uncle or aunt within the 3rd degree of kinship as computed under s. 990.001 (16) This relationship may be by blood, marriage or adoption.</p> <p>(em) "Significant exposure" means contact that carries a potential for a transmission of HIV, by one or more of the following:</p> <ol style="list-style-type: none"> 1. Transmission, into a body orifice or onto mucous membrane, of blood; semen; vaginal secretions; cerebrospinal, synovial, pleural, peritoneal, pericardial or amniotic fluid; or other body fluid that is visibly contaminated with blood. 2. Exchange, during the accidental or intentional infliction of a penetrating wound, including a needle puncture, of blood; semen; vaginal secretions; cerebrospinal, synovial, pleural, peritoneal, pericardial or amniotic fluid; or other body fluid that is visibly contaminated with blood. 3. Exchange, into an eye, an open wound, an oozing lesion, or where a significant breakdown in the epidermal barrier has occurred, of blood; semen; vaginal secretions; cerebrospinal, synovial, pleural, peritoneal, pericardial or amniotic fluid; or other body fluid that is visibly contaminated with blood. 6. Other routes of exposure, defined as significant in rules promulgated by the department. The department in promulgating the rules shall consider all potential routes of transmission of HIV identified by the centers for disease control of the federal public health service. <p>(er) "Social worker" means an individual who is certified or licensed as a social worker, advanced practice social worker, independent social worker, or clinical social worker under ch. 457</p> <p>(fm) "Standard precautions" means measures that a health care provider, an employee of a health care provider or other individual takes in accordance with recommendations of the federal centers for disease control for the health care provider, employee or other individual for prevention of HIV transmission in health-care settings.</p> <p>(2m) CONSENT FOR HIV TESTING.</p> <p>(a) Except as provided in par. (b), and subject to par. (c), a health care provider, blood bank, blood center, or plasma center may not subject a person to an HIV test unless all of the following conditions are satisfied:</p> <ol style="list-style-type: none"> 1. The health care provider, blood bank, blood center, or plasma center

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	<p>notifies the person or the person's authorized representative that the person or the person's authorized representative may decline the HIV test and that the person will be subjected to an HIV test unless the person or the person's authorized representative declines the test.</p> <p>2. The health care provider, blood bank, blood center, or plasma center offers the person or the person's authorized representative a brief oral or written explanation or description of HIV infection; HIV test results; requirements under subs. (7) (b) and (7m) for reporting HIV test results; treatment options for a person who has a positive HIV test result; and AIDS service organizations, as defined in s. 252.12 (1) (b), and the services they provide to persons who have a positive HIV test result.</p> <p>3. If a health care provider offers to perform an HIV test, the health care provider notifies the person or the person's authorized representative that if the person or the person's authorized representative declines to have an HIV test performed, the health care provider may not use the fact that the person declined an HIV test as a basis for denying services or treatment, other than an HIV test, to the person.</p> <p>4. The health care provider, blood bank, blood center, or plasma center provides the person or the person's authorized representative an opportunity to ask questions and to decline the HIV test.</p> <p>5. After complying with applicable conditions under subds. 1. to 4., the health care provider, blood bank, blood center, or plasma center verifies that the person or the person's authorized representative understands that an HIV test will be performed on the person and that the decision of the person or the person's authorized representative regarding whether to have an HIV test performed is not coerced or involuntary.</p> <p>(b) Paragraph (a) does not apply to any of the following:</p> <p>1. HIV testing of any body fluid or tissue that is performed by the department, a laboratory certified under 42 USC 263a, or a health care provider, blood bank, blood center, or plasma center for the purpose of research if the testing is performed in a manner by which the identity of the test subject is not known and may not be retrieved by the researcher.</p> <p>2. HIV testing of a resident or patient of a center for the developmentally disabled, as defined in s. 51.01 (3), or a mental health institute, as defined in s. 51.01 (12), if the medical director of the center or institute determines that the conduct of the resident or patient poses a significant risk of transmitting HIV to another resident or patient of the center or institute and if the medical director provides the resident or patient, or the resident's or patient's guardian, an explanation of the HIV test result.</p> <p>3. HIV testing by a health care professional acting under an order of the court under subd. (5j) or s. 938.296 (4) or (5) or 968.38 (4) or (5). No sample used for laboratory test purposes under this subdivision may</p>

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	<p>disclose the name of the HIV test subject, and the HIV test results may not be made part of the individuals permanent medical record.</p> <p>4. HIV testing in cases of significant exposure, as provided under sub. (5g) or (5j).</p> <p>5. HIV testing of a donor of a human body part or human tissue that is required under s. 252.133.</p> <p>(c) If the subject of an HIV test is a minor who is 14 years of age or older, a health care provider, blood bank, blood center, or plasma center shall provide the notifications and offer the information under par. (a) 1. to 4. to the minor or his or her authorized representative, and only the minor or his or authorized representative may consent to or decline an HIV test under par. (a).</p> <p>(3) WRITTEN CONSENT TO DISCLOSURE.</p> <p>A person who receives a test for the presence of HIV, antigen or nonantigenic products of HIV or an antibody to HIV under sub. (2) (b) or, if the person has executed a power of attorney for health care instrument under ch. 155 and has been found to be incapacitated under s. 155.05 (2), the health care agent may authorize in writing a health care provider, blood bank, blood center or plasma center to disclose the persons test results to anyone at any time subsequent to providing informed consent for disclosure under sub. (2) (b) and a record of this consent shall be maintained by the health care provider, blood bank, blood center or plasma center so authorized.</p> <p>(3m) CONFIDENTIALITY AND DISCLOSURE OF HIV TEST RESULTS.</p> <p>(a) The subject of an HIV test or the subject's authorized representative may disclose the results of the subject's test to anyone.</p> <p>(b) Except as provided under par. (d) or (e). a person who is neither the subject of the HIV test nor the subject's authorized representative may not disclose the subject's HIV test results unless the subject of the HIV test or his or her authorized representative has signed authorization for the disclosure that contains all of the following:</p> <ol style="list-style-type: none"> 1. The name of the subject of the HIV test. 2. Specification of the information that may be disclosed. 3. The name of the person authorized to make the disclosure. 4. The name of the person to whom the disclosure is authorized. 5. The signature of the subject of the HIV test or the signature of the subject's authorized representative.

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	<p>6. The date the authorization is signed as provided under subd. 5.</p> <p>7. The time period during which the authorization for disclosure is effective.</p> <p>(d) Except as provided under par. (f), a person who is neither the subject of an HIV test nor the subject's authorized representative may without written authorization from the test subject or authorized representative under par. (b) disclose the subject's HIV test results to the following persons under the following circumstances:</p> <ol style="list-style-type: none"> 1. To the subject of the HIV test and the subject's authorized representative. 2. To a health care provider who provides care to the subject of the HIV test, including those instances in which a health care provider provides emergency care to the subject. 3. To an agent or employee of a health care provider under subd. 2. who prepares or stores patient health care records, as defined in s. 146.81 (4), for the purposes of preparation or storage of those records; provides patient care; or handles or processes specimens of body fluids or tissues. 4. To a blood bank, blood center, or plasma center that subjected the test subject to an HIV test for any of the following purposes: <ol style="list-style-type: none"> a. Determining the medical acceptability of blood or plasma secured from the subject of the HIV test. b. Notifying the subject of the HIV test of the test results. c. Investigating HIV infections in blood or plasma. 5. To a health care provider who procures, processes, distributes or uses a human body part donated as specified under s. 157.06 (6) (a) or (b), for the purpose of assuring medical acceptability of the gift for the purpose intended. 6. To the state epidemiologist or his or her designee, or to a local health officer or his or her designee, for the purpose of providing epidemiologic surveillance or investigation or control of communicable disease. 7. To a funeral director, as defined under s. 445.01 (5) (a) 1. or 2. or (c) or to other persons who prepare the body of the subject of the HIV test for burial or other disposition or to a person who performs an autopsy or assists in performing an autopsy on the subject of the HIV test. 8. To health care facility staff committees or accreditation or health care services review organizations for the purposes of conducting program monitoring and evaluation and health care services reviews.

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	<p>9. Under a lawful order of a court of record except as provided under s. 901.05</p> <p>10. Except as provided under par. (g) to a person who conducts research, for the purpose of research, if the researcher:</p> <ul style="list-style-type: none"> a. Is affiliated with a health care provider under subd. 2. b. Has obtained permission to perform the research from an institutional review board. c. Provides written assurance to the person disclosing the HIV test results that use of the information requested is only for the purpose under which it is provided to the researcher, the information will not be released to a person not connected with the study, and the final research product will not reveal information that may identify the test subject unless the researcher has first received informed consent for disclosure from the test subject. <p>11. To a coroner, medical examiner or an appointed assistant to a coroner or medical examiner, if one or more of the following applies:</p> <ul style="list-style-type: none"> a. The coroner, medical examiner, or an appointed assistant is investigating the cause of death of the subject of the HIV test and possible HIV-infected status is relevant to the cause of death. b. The coroner, medical examiner, or appointed assistant is investigating the cause of death of the subject of the HIV test and has contact with the body fluid of the subject of the HIV test that constitutes a significant exposure, if a physician, physician assistant, or advanced practice nurse prescriber, based on information provided to the physician, physician assistant, or advanced practice nurse prescriber, determines and certifies in writing that the coroner, medical examiner, or appointed assistant has had a contact that constitutes a significant exposure and if the certification accompanies the request for disclosure. <p>12. To a sheriff, jailer, or keeper of a prison, jail, or house of correction or a person designated with custodial authority by the sheriff, jailer, or keeper, for whom disclosure is necessitated in order to permit the assigning of a private cell to a prisoner who has a positive HIV test result.</p> <p>13. If the test subject of the HIV test has a positive HIV test result and is deceased, by the subject's attending physician, attending physician, or advanced practice nurse prescriber, to persons, if known to the physician or advanced practice nurse prescriber, with whom the subject had sexual contact or shared intravenous drug use paraphernalia.</p> <p>14. To a person under s. 938.296 (4) (a) to (e) as specified in s. 938.296 (4) to a person under s. 938.296 (5) (a) to (e) as specified in s. 938.296 (5) to a person under s. 968.38 (4) (a) to (c) as specified in s. 968.38 (4);</p>

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	<p>or to a person under s. 968.38 (5) (a) to (c) as specified in s. 968.38 (5)</p> <p>15. If the subject of the HIV test is a child who has been placed in a foster home, treatment foster home, group home, residential care center for children and youth, or juvenile correctional facility, as defined in s. 938.02 (10p), including a placement under s. 48.205, 48.21, 938.205, or 938.21, or for whom placement in a foster home, treatment foster home, group home, residential care center for children and youth, or juvenile correctional facility is recommended under s. 48.33 (4), 48.425 (1) (g), 48.837 (4) (c), or 938.33 (3) or (4), to an agency directed by a court to prepare a court report under s. 48.33 (1), 48.424 (4) (b), 48.425 (3), 48.831 (2), 48.837 (4) (c), or 938.33 (1), to an agency responsible for preparing a court report under s. 48.365 (2g), 48.425 (1), 48.831 (2), 48.837 (4) (c), or 938.365 (2g), to an agency responsible for preparing a permanency plan under s. 48.355 (2e), 48.38, 48.43 (1) (c) or (5) (c), 48.63 (4) or (5) (c), 48.831 (4) (e), 938.355 (2e), or 938.38 regarding the child, or to an agency that placed the child or arranged for the placement of the child in any of those placements and, by any of those agencies, to any other of those agencies and, by the agency that placed the child or arranged for the placement of the child in any of those placements, to the child's foster parent or treatment foster parent or the operator of the group home, residential care center for children and youth, or juvenile correctional facility in which the child is placed, as provided in s. 48.371 or 938.371</p> <p>16. If the subject of the HIV test is a prisoner, to the prisoner's health care provider, the medical staff of a prison or jail in which a prisoner is confined, the receiving institution intake staff at a prison or jail to which a prisoner is being transferred or a person designated by a jailer to maintain prisoner medical records, if the disclosure is made with respect to the prisoner's patient health care records under s. 302.388, to the medical staff of a jail to whom the HIV results are disclosed under s. 302.388 (2) (c) or (d), to the medical staff of a jail to which a prisoner is being transferred, if the results are provided to the medical staff by the department of corrections as part of the prisoner's medical file, to a health care provider to whom the results are disclosed under s. 302.388 (2) (c) or (f) or the department of corrections if the disclosure is made with respect to a prisoner's patient health care records under s. 302.388 (4)</p> <p>(e) The health care professional who performs an HIV test under sub. (5g) or (5j) on behalf of a person who has contact with body fluids of the test subject that constitutes a significant exposure shall disclose the HIV test results to the person and the person's physician, physician assistant, or nurse.</p> <p>(f) The results of an HIV test of an individual that is performed under sub. (5g) or (5j) may be disclosed only to the following:</p> <ol style="list-style-type: none"> 1. The subject of the test. 2. Anyone authorized by the subject of the test.

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	<p>3. The person who was certified to have had contact that constitutes a significant exposure and to that person's physician, physician assistant, or nurse.</p> <p>(g) A person who was certified to have had contact with body fluid of an individual that constitutes a significant exposure and has the individual's blood subjected to an HIV test under sub. (5g) or (5j) may not disclose the identity of the test subject to any other person except for the purpose of having the HIV test performed.</p> <p>(h) A private pay patient may prohibit disclosure of his or her HIV test results under par. (d) 10. if he or she annually submits to the maintainer of his or her HIV test results under sub. (4) (c) a signed, written request that disclosure be prohibited.</p> <p>(4) RECORD MAINTENANCE.</p> <p>A health care provider, blood bank, blood center, or plasma center that obtains a specimen of body fluids or tissues from a person for the purpose of an HIV test, or offers to subject a person to an HIV test shall maintain in the person's health care record all of the following:</p> <p>(a) Repealed</p> <p>(b) A record of whether the person or his or her authorized representative consented to or declined the HIV test under sub. (2m) (a).</p> <p>(bm) A record of any authorization for disclosure of HIV test results that the person or his or her authorized representative has made as provided under sub. (3m) (b).</p> <p>(c) A record of the results of an HIV test administered to the person, except that results of an HIV test administered under sub. (5g) or (5j) or s. 938.296 (4) or (5) or 968.38 (4) or (5) that include the identity of the test subject may not be maintained without the consent of the test subject.</p> <p>(5g) SIGNIFICANT EXPOSURE</p> <p>A person who has contact with body fluid of an individual that constitutes a significant exposure may cause the individual to be subjected to HIV testing and receive the results of the HIV test under sub. (3m) (e) if all of the following apply:</p> <p>(a) The contact occurred under one of the following circumstances:</p> <p>1. The person is an emergency medical technician; first responder; fire fighter; peace officer; correctional officer; person who is employed at a juvenile correctional facility, as defined in s. 938.02 (10p), or a secured residential care center for children and youth, as defined in s. 938.02</p>

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	<p>(15g); state patrol officer; jailer, keeper of a jail, or person designated with custodial authority by the jailer or keeper and the contact occurred during the course of the person providing care or services to the individual.</p> <p>2. The person is a peace officer, correctional officer, state patrol officer, jailer, or keeper of a jail, or person designated with custodial authority by the jailer or keeper and the contact occurred while the person was searching or arresting the individual or while controlling or transferring the individual in custody.</p> <p>3. The person is a health care provider or an employee of a health care provider and the contact occurred during the course of the person providing care or treatment to the individual or handling or processing specimens of body fluids or tissues of the individual.</p> <p>4. The person is a staff member of a state crime laboratory, during the course of handling or processing specimens of body fluids or tissues of the individual.</p> <p>5. The person is a social worker or an employee of a school district, cooperative educational service agency, charter school, private school, the Wisconsin Educational Services Program for the Deaf and Hard of Hearing, or the Wisconsin Center for the Blind and Visually Impaired and the contact occurred while the person was performing employment duties involving the individual.</p> <p>6. While the person rendered emergency care at the scene of an emergency or accident, if the person is immune from civil liability for rendering the care under s. 895.48 or 895.4802 (2).</p> <p>(b). If the contact occurs as provided under par. (a) 1. To 5., the entity that employs or contracts with the person to provide the services described under par. (a) 1. to 5. requires, as a general policy, that standard precautions against significant exposure be taken during provision of the services, except in those emergency circumstances in which the time necessary for use of the standard precautions would endanger the life of the individual.</p> <p>(c) A physician, physician assistant, or advanced practice nurse prescriber, based on information provided to the physician, physician assistant, or advanced practice nurse prescriber, determines and certifies in writing that the person has contact that constitutes a significant exposure. The certification shall accompany the request for HIV testing and disclosure. If the person is a physician, physician assistant, or advanced practice nurse prescriber, he or she may not make this determination or certification. The information that is provided to a physician, physician assistant, or advanced practice nurse prescriber to document the occurrence of the contact that constitutes a significant exposure and the physician's, physician's assistant, or advanced practice nurse prescriber's certification that the person has had contact that constitutes a significant exposure, shall be provided on a report</p>

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	<p>form that is developed by the department of commerce under s. 101.02 (19) (a) or on a report form that the department of commerce determines, under s. 101.02 (19) (b), is substantially equivalent to the report form that is developed under s. 101.02 (19) (a)</p> <p>(d) The person submits to an HIV test as soon as feasible or within a time period established by the department after consulting guidelines of the centers for disease control of the federal public health service, whichever is earlier.</p> <p>(e) Except as provided in subd. (5j), the HIV test is performed on blood of the individual that is drawn for a purpose other than HIV testing.</p> <p>(f) The individual has been given an opportunity to be subjected to an HIV test in accordance with the conditions under sub. (2m) (a) and has declined.</p> <p>(g) The individual has been informed of all of the following:</p> <ol style="list-style-type: none"> 1. That an HIV test may be performed on his or her blood. 2. That the HIV test results may be disclosed to the person and the person's physician, physician assistant, or nurse. 3. That, except as provided in subd. 2., the HIV test may not be disclosed to any person. 4. That if the person knows the identity of the individual, the person may not disclose the identity to any other person except for the purpose of having the HIV test performed. 5. That a record may be kept of the HIV test results only if the record does not reveal the individuals identity. <p>(5j) COURT ORDER FOR HIV TESTING.</p> <p>(a) A person who may cause an individual to be subjected to HIV testing under sub. (5g) may request the district attorney to apply to the circuit court for his or her county to order the individual to submit to an HIV test if no blood of the individual that was drawn for a purpose other than HIV testing is available for HIV testing. A person making a request to a district attorney under this paragraph shall provide the district attorney the certification under subd.(5g) (c).</p> <p>(b) Upon receipt of a request and certification under par. (a), a district attorney shall, as soon as possible so as to enable the court to provide timely notice, apply to the circuit court for his or her county to order the individual to submit to an HIV test administered by a health care professional.</p>

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	<p>(c) The court shall set a time for a hearing on the matter under this subsection within 20 days after receipt of a request under par. (b). The court shall give the district attorney and the individual from whom an HIV test is sought notice of the hearing at least 72 hours prior to the hearing. The individual may have counsel at the hearing, and counsel may examine and cross-examine witnesses. If the court finds probable cause to believe that the person who requested a court order for testing has had contact with body fluid of the individual that constitutes a significant exposure, the court shall, except as provided in par. (d) order the individual to submit to an HIV test. No sample used for laboratory test purposes under this paragraph may disclose the name of the HIV test subject.</p> <p>(d) The court is not required to order an individual to submit to an HIV test under par. (c) if the court finds substantial reason relating to the life or health of the individual not to do so and states the reason on the record.</p> <p>(5m) AUTOPSIES; HIV TESTING OF CERTAIN CORPSES.</p> <p>(d) Notwithstanding s. 157.05, a corpse may be subjected to an HIV test and the test results disclosed to a person who has contact that constitutes a significant exposure with body fluid of the corpse or an individual who subsequently dies, if all of the following apply:</p> <ol style="list-style-type: none"> 1. The contact occurs under any of the following circumstances: <ol style="list-style-type: none"> a. While the person, including a person exempted from civil liability under the conditions specified under s. 895.48, or 895.4802 (2) renders emergency care to an emergency or accident victim and the victim subsequently dies prior to performance of an HIV test on the victim. b. The person is a funeral director, coroner, medical examiner, or appointed assistant to a coroner or medical examiner and the contact occurs while the person prepares the corpse for burial or other disposition or while the person performs an autopsy or assists in performing an autopsy on the corpse. c. The person is a health care provider or an agent or employee of a health care provider and the person has contact with the body fluid of the corpse or of a patient who dies subsequent to the contact and prior to performance of an HIV test on the patient. 2. A physician, physician assistant, or advanced practice nurse prescriber, based on information provided to the physician, physician assistant, or advanced practice nurse prescriber, determines and certifies in writing that the contact under subd. 1. constitutes a significant exposure. A health care provider who as a contact under par. (d) 1. c. may not make the certification under this subdivision for himself or herself. 3. The certification under subd. 2. accompanies the request for performance of an HIV test and disclosure.

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	<p>(e) If the conditions under par. (d) are satisfied, the following person shall order an HIV test of the corpse:</p> <ol style="list-style-type: none"> 1. If the contact occurs as provided under par. (d) 1. a., the coroner, medical examiner, or physician who certifies the victim's cause of death under s. 69.18 (2) (b), (c), or (d). 2. If the contact occurs as provided under par. (d) 1. b., the attending physician or advanced practice nurse prescriber of the funeral director, coroner, medical examiner, or appointed assistant. 3. If the contact occurs as provided under (d) 1. c., the physician or advanced practice nurse prescriber who makes the certification under par. (d) 2. <p>(5r) SALE OF TESTS WITHOUT APPROVAL PROHIBITED.</p> <p>No person may sell or offer to sell in this state a test or test kit to detect the presence of HIV, antigen or nonantigenic products of HIV or an antibody to HIV for self-use by an individual unless the test or test kit is first approved by the state epidemiologist. In reviewing a test or test kit under this subsection, the state epidemiologist shall consider and weigh the benefits, if any, to the public health of the test or test kit against the risks, if any, to the public health of the test or test kit.</p> <p>(6) EXPANDED DISCLOSURE OF HIV TEST RESULTS PROHIBITED.</p> <p>No person to whom the results of an HIV test have been disclosed under sub. (3m) (a), (b), (d), or (e) or (5m) may disclose the test results except as authorized under sub. (3m) (a), (b), (d), or (e) or (5m)</p> <p>(7) REPORTING OF POSITIVE HIV TEST RESULTS.</p> <p>(a) Notwithstanding ss. 227.01 (13) and 227.10 (1), for the purposes of this subsection, the state epidemiologist shall determine, based on the preponderance of available scientific evidence, the procedures necessary in this state to obtain a validated HIV test result and the secretary shall so declare under s. 250.04 (1) or (2) (a) The state epidemiologist shall revise this determination if, in his or her opinion, changed available scientific evidence warrants a revision, and the secretary shall declare the revision under s. 250.04 (1) or (2) (a)</p> <p>(b) If a positive, validated HIV test result is obtained from an HIV test subject, the health care provider, blood bank, blood center or plasma center that maintains a record of the HIV test result under sub. (4) (c) shall report to the state epidemiologist the following information:</p> <ol style="list-style-type: none"> 1. The name and address of the health care provider, blood bank, blood

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	<p>center or plasma center reporting.</p> <p>2. The name and address of the subjects health care provider, if known.</p> <p>3. The name, address, telephone number, age or date of birth, race and ethnicity, sex and county of residence of the test subject, if known.</p> <p>4. The date on which the HIV test was performed.</p> <p>5. The HIV test result.</p> <p>5m. The mode of transmission of HIV to the test subject.</p> <p>6. Any other medical or epidemiological information required by the state epidemiologist for the purpose of exercising surveillance, control and prevention of HIV infections.</p> <p>(c) Except as provided in sub. (7m), a report made under par. (b) may not include any of the following:</p> <p>1. Information with respect to the sexual orientation of the HIV test subject.</p> <p>2. The identity of persons with whom the HIV test subject may have had sexual contact.</p> <p>(d) This subsection does not apply to the reporting of information under s. 252.05 with respect to persons for whom a diagnosis of acquired immunodeficiency syndrome has been made.</p> <p>(7m) REPORTING OF PERSONS SIGNIFICANTLY EXPOSED.</p> <p>If a positive, validated HIV test result is obtained from a test subject, the test subject's physician, physician assistant, or advanced practice nurse prescriber who maintains a record of the HIV test result under sub. (4) (c) may report to the state epidemiologist the name of any person known to the physician, physician assistant, or advanced practice nurse prescriber to have had contact with body fluid of the test subject that constitutes a significant exposure, only after the physician, physician assistant, or advanced practice nurse prescriber has done all of the following:</p> <p>(a) Counseled the test subject to inform any person who has had contact with body fluid of the test subject that constitutes a significant exposure.</p> <p>(b) Notified the HIV test subject that the name of any person known to the physician, physician assistant, or advanced practice nurse prescriber to have had contact with body fluid of the test subject that constitutes a significant exposure will be reported to the state epidemiologist.</p> <p>(7r) EXPLANATION OF HIV FOR TEST SUBJECTS.</p>

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	<p>The department shall provide to health care providers, blood banks, blood centers, and plasma centers a brief explanation or description of all of the following that a health care provider, blood bank, blood center, or plasma center may provide prospective HIV test subjects under sub. (2m) (a) 3.:</p> <p>(a) HIV infection.</p> <p>(b) HIV test results.</p> <p>(c) Requirements under subs. (7) (b) and (7m) for reporting HIV test results.</p> <p>(d) Treatment options for a person who has a positive HIV test result.</p> <p>(e) AIDS service organizations, as defined in s. 252.12 (1) (b) and the services they provide to persons who have a positive HIV test result.</p> <p>(8) CIVIL LIABILITY.</p> <p>(a) Any person violating sub. (2m), (3m) (b), (d), or (f), (5m), (6) or (7) (c) is liable to the subject of the test for actual damages, costs and reasonable actual attorney fees, plus exemplary damages of up to \$2,000 for a negligent violation and up to \$50,000 for an intentional violation.</p> <p>(b) The plaintiff in an action under par. (a) has the burden of proving by a preponderance of the evidence that a violation occurred under sub. (2m), (3m) (b), (d), or (f), (5m), (6) or (7) (c) A conviction under sub. (2m), (3m) (b), (d), or (f), (5m), (6) or (7) (c) is not a condition precedent to bringing an action under par. (a)</p> <p>(9) PENALTIES.</p> <p>Whoever intentionally discloses the results of an HIV test in violation of sub. (3m) (b) or (f) or (5m) and thereby causes bodily harm or psychological harm to the subject of the HIV test may be fined not more than \$50,000 or imprisoned not more than 9 months or both. Whoever negligently discloses the results of an HIV test in violation of sub. (3m) (b) or (f) or (5m) is subject to a forfeiture of not more than \$2,000 for each violation. Whoever intentionally discloses the results of an HIV test in violation of sub. (3m) (b) or (f) or (5m), knowing that the information is confidential, and discloses the information for pecuniary gain may be fined not more than \$200,000 or imprisoned not more than 3 years and 6 months, or both.</p> <p>(10) DISCIPLINE OF EMPLOYEES.</p> <p>Any employee of the state or a political subdivision of the state who violates this section may be discharged or suspended without pay.</p>

Chapter 631: Insurance Contracts Generally

WI Chap 631 Code §	Code Language
§ 631.90	<p>Restrictions on use of tests for HIV.</p> <p>(1) In this section, "HIV test" has the meaning given in s. 252.01 (2m).</p> <p>(2) With regard to policies issued or renewed on and after July 20, 1985, an insurer may not do any of the following:</p> <p>(a) Require or request directly or indirectly any individual to reveal whether the individual has obtained an HIV test or what the results of this test, if obtained by the individual, were.</p> <p>(b) Condition the provision of insurance coverage on whether an individual has obtained an HIV test or what the results of this test, if obtained by the individual, were.</p> <p>(c) Consider in the determination of rates or any other aspect of insurance coverage provided to an individual whether an individual has obtained an HIV test or what the results of this test, if obtained by the individual, were.</p> <p>(3)</p> <p>(a) Subsection (2) does not apply with regard to an HIV test for use in the underwriting of individual life, accident and health insurance policies that the commissioner finds and designates by rule as sufficiently reliable for use in the underwriting of individual life, accident and health insurance policies.</p> <p>(b) Paragraph (a) does not authorize the use of an HIV test to discriminate in violation of s. 628.34 (3)</p>

Chapter 901: Evidence – General Provisions

WI Chap 901 Code §	Code Language
§ 901.05	<p>Admissibility of certain test results.</p> <p>(1) In this section, "HIV" means any strain of human immunodeficiency virus, which causes acquired immunodeficiency syndrome.</p> <p>(2) Except as provided in sub. (3), the results of an HIV test, as defined in s. 252.01 (2m), are not admissible during the course of a civil or criminal action or proceeding or an administrative proceeding, as evidence of a persons character or a trait of his or her character for the purpose of proving that he or she acted in conformity with that character on a particular occasion unless the evidence is admissible under s. 904.04 (1) or 904.05 (2) and unless the following procedures are used:</p> <p>(a) The court may determine the admissibility of evidence under this section only upon a pretrial motion.</p> <p>(b) Evidence which is admissible under this section must be determined by the court upon pretrial motion to be material to a fact at issue in the case and of sufficient probative value to outweigh its inflammatory and prejudicial nature before it may be introduced at trial.</p> <p>(3) The results of a test or tests under s. 938.296 (4) or (5) or 968.38 (4) or (5) and the fact that a person has been ordered to submit to such a test or tests under s. 938.296 (4) or (5) or 968.38 (4) or (5) are not admissible during the course of a civil or criminal action or proceeding or an administrative proceeding.</p>

Chapter 938: Juvenile Justice Code

WI Chap 938 Code §	Code Language
§ 938.296	<p>Testing for HIV infection and certain diseases.</p> <p>(1) DEFINITIONS.</p> <p>In this section:</p> <p>(a) "Health care professional" has the meaning given in s. 252.15 (1) (am)</p> <p>(b) "HIV" has the meaning given in s. 252.01 (1m)</p> <p>(bm) "HIV test" has the meaning given in s. 252.01 (2m).</p> <p>(c) "Sexually transmitted disease" has the meaning given in s. 252.11 (1)</p> <p>(d) "Significant exposure" has the meaning given in s. 252.15 (1) (em)</p> <p>(e) "Victim" has the meaning given in s. 938.02 (20m) (a) 1.</p> <p>(2) SEXUALLY TRANSMITTED DISEASE AND HIV TESTING.</p> <p>In a proceeding under s. 938.12 or 938.13 (12) in which the juvenile is alleged to have violated s. 940.225, 948.02, 948.025, 948.05, 948.06, or 948.085 (2), the district attorney or corporation counsel shall apply to the court for an order requiring the juvenile to submit to an HIV test and a test or a series of tests to detect the presence of a sexually transmitted disease, each of which tests shall be administered by a health care professional, and to disclose the results of those tests as specified in sub. (4) (a) to (e), if all of the following apply:</p> <p>(a) The victim or alleged victim, if an adult, or the parent, guardian or legal custodian of the victim or alleged victim, if the victim or alleged victim is a child, requests the district attorney or corporation counsel to apply for that order.</p> <p>(b) The district attorney or corporation counsel has probable cause to believe that the victim or alleged victim has had contact with body fluid of the juvenile that constitutes a significant exposure. If the juvenile is adjudicated delinquent, is found to be in need of protection or services or is found not responsible by reason of mental disease or defect under s. 938.30 (5), this paragraph does not apply.</p> <p>(2m) COMMUNICABLE DISEASE TESTING.</p> <p>In a proceeding under s. 938.12 or 938.13 (12) in which the juvenile is alleged to have violated s. 946.43 (2m), the district attorney or corporation counsel shall apply to the court for an order requiring the juvenile to submit to a test or a series of tests administered by a health</p>

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	<p>care professional to detect the presence of communicable diseases and to disclose the results of the test or tests as specified in sub. (5) (a) to (e), if all of the following apply:</p> <p>(a) The victim or alleged victim, if an adult, or the parent, guardian or legal custodian of the victim or alleged victim, if the victim or alleged victim is a child, requests the district attorney or corporation counsel to apply for the order.</p> <p>(b) The district attorney or corporation counsel has probable cause to believe that the act or alleged act of the juvenile that constitutes a violation of s. 946.43 (2m) carried a potential for transmitting a communicable disease to the victim or alleged victim and involved the juveniles blood, semen, vomit, saliva, urine, feces, or other bodily substance.</p> <p>(3) WHEN ORDER MAY BE SOUGHT.</p> <p>The district attorney or corporation counsel may apply for an order under sub. (2) or (2m) at any of the following times:</p> <p>(a) At or after the plea hearing and before a dispositional order is entered.</p> <p>(b) At any time after the juvenile is adjudicated delinquent or found to be in need of protection or services.</p> <p>(c) At any time after the juvenile is found not responsible by reason of mental disease or defect under s. 938.30 (5)</p> <p>(d) If the court has determined that the juvenile is not competent to proceed under s. 938.30 (5) and has suspended proceedings on the petition, at any time after the determination that the juvenile is not competent to proceed.</p> <p>(4) DISCLOSURE OF SEXUALLY TRANSMITTED DISEASE AND HIV TEST RESULTS.</p> <p>On receipt of an application for an order under sub. (2), the court shall set a time for a hearing on the application. If the juvenile has been found not competent to proceed under s. 938.30 (5), the court may hold a hearing under this subsection only if the court first determines that the probable cause finding can be fairly made without the personal participation of the juvenile. If, after hearing, the court finds probable cause to believe that the victim or alleged victim has had contact with body fluid of the juvenile that constitutes a significant exposure, the court shall order the juvenile to submit to an HIV test and a test or series of tests a sexually transmitted disease. The tests shall be administered by a health care professional. The court shall require the health care professional who performs tests to refrain from making the test results</p>

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	<p>part of the juveniles permanent medical record and to disclose the results of the tests to any of the following:</p> <p>(a) The parent, guardian or legal custodian of the juvenile.</p> <p>(b) The victim or alleged victim, if the victim or alleged victim is an adult.</p> <p>(c) The parent, guardian or legal custodian of the victim or alleged victim, if the victim or alleged victim is a child.</p> <p>(d) The health care professional that provides care for the juvenile, upon request by the parent, guardian or legal custodian of the juvenile.</p> <p>(e) The health care professional that provides care for the victim or alleged victim, upon request by the victim or alleged victim or, if the victim or alleged victim is a child, upon request by the parent, guardian or legal custodian of the victim or alleged victim.</p> <p>(5) DISCLOSURE OF COMMUNICABLE DISEASE TEST RESULTS.</p> <p>On receipt of an application for an order under sub. (2m), the court shall set a time for a hearing on the application. If the juvenile has been found not competent to proceed under s. 938.30 (5), the court may hold a hearing under this subsection only if the court first determines that the probable cause finding can be fairly made without the personal participation of the juvenile. If, after hearing, the court finds probable cause to believe that the act or alleged act of the juvenile that constitutes a violation of s. 946.43 (2m) carried a potential for transmitting a communicable disease to the victim or alleged victim and involved the juveniles blood, semen, vomit, saliva, urine or feces or other bodily substance of the juvenile, the court shall order the juvenile to submit to a test or a series of tests administered by a health care professional to detect the presence of any communicable disease that was potentially transmitted by the act or alleged act of the juvenile. The court shall require the health care professional who performs the test or series of tests to refrain if applicable, from making the test results part of the juveniles permanent medical record and to disclose the results of the test to any of the following:</p> <p>(a) The parent, guardian or legal custodian of the juvenile.</p> <p>(b) The victim or alleged victim, if the victim or alleged victim is an adult.</p> <p>(c) The parent, guardian or legal custodian of the victim or alleged victim, if the victim or alleged victim is a child.</p> <p>(d) The health care professional that provides care for the juvenile, upon request by the parent, guardian or legal custodian of the juvenile.</p> <p>(e) The health care professional that provides care for the victim or</p>

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	<p>alleged victim, upon request by the victim or alleged victim or, if the victim or alleged victim is a child, upon request by the parent, guardian or legal custodian of the victim or alleged victim.</p> <p>(6) PAYMENT FOR TEST COSTS.</p> <p>The court may order the county to pay for the cost of a test or series of tests ordered under sub. (4) or (5) This subsection does not prevent recovery of reasonable contribution toward the cost of that test or series of tests from the parent or guardian of the juvenile as the court may order based on the ability of the parent or guardian to pay. This subsection is subject to s. 301.03 (18)</p>
§ 938.346	<p>Notice to victims of juveniles' acts.</p> <p>(1) INFORMATION TO VICTIMS.</p> <p>Each known victim of a juveniles act shall receive timely notice of the following information:</p> <p>(a) The procedures under s. 938.396 (1) (c) 5. and 6. for obtaining the identity of the juvenile and the juveniles parents.</p> <p>(b) The procedure under s. 938.396 (1) (c) 5. for obtaining the juveniles police records.</p> <p>(c) The potential liability of the juveniles parents under s. 895.035</p> <p>(d) Either of the following:</p> <ol style="list-style-type: none"> 1. Information regarding any decision to close a case under s. 938.24 (5m), any deferred prosecution agreement under s. 938.245, any decision not to file a petition under s. 938.25 (2m), any consent decree under s. 938.32 or any dispositional order under ss. 938.34 to 938.345 The information may not include reports under s. 938.295 or 938.33 or any other information that deals with sensitive personal matters of the juvenile and the juveniles family and that does not directly relate to the act or alleged act committed against the victim. This subdivision does not affect the right of a victim to attend any hearing that the victim is permitted to attend under s. 938.299 (1) (am) 2. The procedure for obtaining the information in subd. 1. <p>(e) The procedure under s. 938.296 under which the victim, if an adult, or the parent, guardian or legal custodian of the victim, if the victim is a child, may request an order requiring a juvenile who is alleged to have violated s. 940.225, 948.02, 948.025, 948.05, 948.06, or 948.085 (2) to submit to an HIV test as defined in s. 252.01 (2m), and a test or a series of tests to detect the presence of a sexually transmitted disease, as defined in s. 252.11 (1), and to have the results of the tests disclosed as</p>

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	<p>provided in s. 938.296 (4) (a) to (e)</p> <p>(ec) The procedure under s. 938.296 under which the victim, if an adult, or the parent, guardian or legal custodian of the victim, if the victim is a child, may request an order requiring a juvenile who is alleged to have violated s. 946.43 (2m) to submit to a test or a series of tests to detect the presence of communicable diseases and to have the results of that test or series of tests disclosed as provided in s. 938.296 (5) (a) to (e)</p> <p>(em) The right to confer, if requested, with an intake worker regarding deferred prosecution agreements under s. 938.245 (1m) or with a district attorney or corporation counsel under s. 938.265 regarding the possible outcomes of the proceedings and under s. 938.32 (1) (am) regarding consent decrees.</p> <p>(f) The right to request and receive notice of the time and place of any hearing that the victim may attend under s. 938.299 (1) (am)</p> <p>(fm) All of the following:</p> <ol style="list-style-type: none"> 1. The right to a separate waiting area as provided under s. 938.2965 2. The right to have his or her interest considered concerning continuances in the case under s. 938.315 (2) 3. The right to have victim impact information included in a court report under s. 938.33 and to have the person preparing the court report attempt to contact the victim, as provided under s. 938.331 4. The right to employer intercession services under s. 950.04 (1v) (bm) <p>(g) The right to make a statement to the court as provided in ss. 938.32 (1) (b) and 938.335 (3m)</p> <p>(h) All of the following:</p> <ol style="list-style-type: none"> 1. The right to be accompanied by a service representative, as provided under s. 895.45 2. The right to restitution, as provided under ss. 938.245, 938.32 (1t) and 938.34 (5) 3. The right to compensation, as provided under ch. 949 4. The right to a speedy disposition of the case under s. 950.04 (1v) (k) 5. The right to have personal property returned, as provided under s. 950.04 (1v) (s) 6. The right to complain to the department of justice concerning the

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	<p>treatment of crime victims, as provided under s. 950.08 (3), and to request review by the crime victims rights board of the complaint, as provided under s. 950.09 (2)</p> <p>(1m) DUTIES OF INTAKE WORKERS AND DISTRICT ATTORNEYS.</p> <p>The intake worker shall make a reasonable attempt to provide notice of the information under sub. (1) (a), (b), (c), and (h), the information under sub. (1) (d) relating to a deferred prosecution agreement under s. 938.245, the information under sub. (1) (em) relating to the right to confer, if requested, on deferred prosecution agreements and the information under sub. (3) if the juveniles case is closed. The district attorney or corporation counsel shall make a reasonable attempt to provide notice of the information under sub. (1) (e), (ec), (f), (fm), and (g), the information under sub. (1) (d) relating to a consent decree under s. 938.32 or a dispositional order under ss. 938.34 to 938.345, the information under sub. (1) (em) relating to the right to request an opportunity to confer, if requested, on amendment of petitions, consent decrees and disposition recommendations and the information under sub. (3) if he or she decides not to file a petition or the proceeding is terminated without a consent decree or dispositional order after the filing of a petition.</p> <p>(2) RESTRICTIONS ON DISCLOSURE OF INFORMATION.</p> <p>The notice under sub. (1) shall include an explanation of the restrictions on disclosing information obtained under this chapter and the penalties for violating the restrictions.</p> <p>(3) CLOSED CASES.</p> <p>If an inquiry is closed by an intake worker or otherwise does not result in a deferred prosecution agreement, the intake worker shall make a reasonable attempt to inform each known victim of the juveniles alleged act as provided in s. 938.24 (5m) If a district attorney or corporation counsel decides not to file a petition or if, after a petition is filed, a proceeding is dismissed or otherwise does not result in a consent decree or dispositional order, a district attorney or corporation counsel shall make a reasonable attempt to inform each known victim of the juveniles alleged act as provided in s. 938.25 (2m) or 938.312, whichever is applicable.</p> <p>(4) CHILD VICTIMS.</p> <p>If the victim, as defined in s. 938.02 (20m) (a) 1., is a child, the notice under this section shall be given to the child's parents, guardian or legal custodian.</p> <p>(5) COURT POLICIES AND RULES.</p>

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	Chief judges and circuit judges shall establish by policy and rule procedures for the implementation of this section. Subject to subs. (1m) and (3), the policies and rules shall specify when, how and by whom the notice under this section shall be provided to victims and with whom victims may confer regarding deferred prosecution agreements, amendment of petitions, consent decrees and disposition recommendations.
§ 938.371	<p>Access to certain information by substitute care provider.</p> <p>(1) MEDICAL INFORMATION.</p> <p>If a juvenile is placed in a foster home, treatment foster home, group home, residential care center for children and youth, or juvenile correctional facility or in the home of a relative other than a parent, including a placement under s. 938.205 or 938.21, the agency, as defined in s. 938.38 (1) (a), that placed the juvenile or arranged for the placement of the juvenile shall provide the following information to the foster parent, treatment foster parent, relative, or operator of the group home, residential care center for children and youth, or juvenile correctional facility at the time of placement or, if the information has not been provided to the agency by that time, as soon as possible after the date on which the agency receives that information, but not more than 2 working days after that date:</p> <p>(a) Results of an HIV test, as defined in s. 252.01 92m), of the juvenile as provided under s. 252.15 (3m) (d) 15., including results included in a court report or permanency plan. At the time that the test results are provided, the agency shall notify the foster parent, treatment foster parent, relative, or operator of the group home, residential care center for children and youth, or juvenile correctional facility of the confidentiality requirements under s. 252.15 (6)</p> <p>(b) Results of any tests of the juvenile to determine the presence of viral hepatitis, type B, including results included in a court report or permanency plan. [juvenile]</p> <p>(c) Any other medical information concerning the juvenile that is necessary for the care of the juvenile. [juvenile]</p> <p>(3) OTHER INFORMATION.</p> <p>At the time of placement of a juvenile in a foster home, treatment foster home, group home, residential care center for children and youth, or juvenile correctional facility or in the home of a relative other than a parent or, if the information is not available at that time, as soon as possible after the date on which the court report or permanency plan has been submitted, but no later than 7 days after that date, the agency, as defined in s. 938.38 (1) (a), responsible for preparing the juveniles permanency plan shall provide to the foster parent, treatment foster</p>

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	<p>parent, relative, or operator of the group home, residential care center for children and youth, or juvenile correctional facility information contained in the court report submitted under s. 938.33 (1) or 938.365 (2g) or permanency plan submitted under s. 938.355 (2e) or 938.38 relating to findings or opinions of the court or agency that prepared the court report or permanency plan relating to any of the following:</p> <p>(a) Any mental, emotional, cognitive, developmental, or behavioral disability of the juvenile. [juvenile]</p> <p>(b) Any involvement of the juvenile in any criminal gang, as defined in s. 939.22 (9), or in any other group in which any child was traumatized as a result of his or her association with that group. [juvenile]</p> <p>(c) Any involvement of the juvenile in any activities that are harmful to the juveniles physical, mental, or moral well-being. [juvenile]</p> <p>(d) Any involvement of the juvenile, whether as victim or perpetrator, in sexual intercourse or sexual contact in violation of s. 940.225, 948.02, 948.025, or 948.085, prostitution in violation of s. 944.30, sexual exploitation of a child in violation of s. 948.05, or causing a child to view or listen to sexual activity in violation of s. 948.055, if the information is necessary for the care of the juvenile or for the protection of any person living in the foster home, treatment foster home, group home, residential care center for children and youth, or juvenile correctional facility. [juvenile]</p> <p>(e) The religious affiliation or beliefs of the juvenile.</p> <p>(4) Subsection (1) does not preclude an agency, as defined in s. 48.38 (1) (a), that is arranging for the placement of a juvenile from providing the information specified in sub. (1) (a) to (c) to a person specified in sub. (1) (intro.) before the time of placement of the juvenile. Subsection (3) does not preclude an agency, as defined in s. 48.38 (1) (a), responsible for preparing a juveniles court report or permanency plan from providing the information specified in sub. (3) (a) to (e) to a person specified in sub. (3) (intro.) before the time of placement of the juvenile.</p> <p>(5) Except as permitted under s. 252.15 (6), a foster parent, treatment foster parent, relative, or operator of a group home, residential care center for children and youth, or secured correctional facility that receives any information under sub. (1) or (3), other than the information described in sub. (3) (e), shall keep the information confidential and may disclose that information only for the purposes of providing care for the juvenile or participating in a court hearing or permanency plan review concerning the juvenile.</p>

Chapter 968: Commencement of Criminal Proceedings
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WI Chap 968 Code §	Code Language
§ 968.38	<p>Testing for HIV infection and certain diseases.</p> <p>(1) In this section:</p> <p>(a) "Health care professional" means a physician or a registered nurse or licensed practical nurse who is licensed under ch. 441</p> <p>(b) "HIV" means any strain of human immunodeficiency virus, which causes acquired immunodeficiency syndrome.</p> <p>(bc) "HIV test" has the meaning given in s. 252.01 (2m).</p> <p>(bm) "Physician" has the meaning given in s. 448.01 (5)</p> <p>(c) "Sexually transmitted disease" has the meaning given in s. 252.11 (1)</p> <p>(d) "Significant exposure" has the meaning given in s. 252.15 (1) (em)</p> <p>(2) In a criminal action under s. 940.225, 948.02, 948.025, 948.05, 948.06, 948.085, or 948.095, if all of the following apply, the district attorney shall apply to the circuit court for his or her county to order the defendant to submit to an HIV test and to a test or a series of tests to detect the presence of , a sexually transmitted disease, each of which tests shall be administered by a health care professional, and to disclose the results of the test or tests as specified in sub. (4) (a) to (c):</p> <p>(a) The district attorney has probable cause to believe that the alleged victim or victim has had contact with body fluid of the defendant that constitutes a significant exposure. If the defendant is convicted or found not guilty by reason of mental disease or defect, this paragraph does not apply.</p> <p>(b) The alleged victim or victim who is not a minor or the parent or guardian of the alleged victim or victim who is a minor requests the district attorney to so apply for an order.</p> <p>(2m) In a criminal action under s. 946.43 (2m), the district attorney shall apply to the circuit court for his or her county for an order requiring the defendant to submit to a test or a series of tests administered by a health care professional to detect the presence of communicable diseases and to disclose the results of the test or tests as specified in sub. (5) (a) to (c), if all of the following apply:</p> <p>(a) The district attorney has probable cause to believe that the act or alleged act of the defendant that constitutes a violation of s. 946.43 (2m) carried a potential for transmitting a communicable disease to the victim or alleged victim and involved the defendants blood, semen, vomit, saliva, urine or feces or other bodily substance of the defendant.</p>

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	<p>(b) The alleged victim or victim who is not a minor or the parent or guardian of the alleged victim or victim who is a minor requests the district attorney to apply for an order.</p> <p>(3) The district attorney may apply under sub. (2) or (2m) for an order at any of the following times, and, within those times, shall do so as soon as possible so as to enable the court to provide timely notice:</p> <p>(a) At or after the initial appearance and prior to the preliminary examination.</p> <p>(b) If the defendant waives the preliminary examination, at any time after the court binds the defendant over for trial and before a verdict is rendered.</p> <p>(c) At any time after the defendant is convicted or is found not guilty by reason of mental disease or defect.</p> <p>(d) If the court has determined that the defendant is not competent to proceed under s. 971.14 (4) and suspended the criminal proceedings, at any time after the determination that the defendant is not competent to proceed.</p> <p>(4) The court shall set a time for a hearing on the matter under sub. (2) during the preliminary examination, if sub. (3) (a) applies; after the defendant is bound over for trial and before a verdict is rendered, if sub. (3) (b) applies; after conviction or a finding of not guilty by reason of mental disease or defect, if sub. (3) (c) applies; or, subject to s. 971.13 (4), after the determination that the defendant is not competent, if sub. (3) (d) applies. The court shall give the district attorney and the defendant notice of the hearing at least 72 hours prior to the hearing. The defendant may have counsel at the hearing, and counsel may examine and cross-examine witnesses. If the court finds probable cause to believe that the victim or alleged victim has had contact with body fluid of the defendant that constitutes a significant exposure, the court shall order the defendant to submit to an HIV test and to a test or a series of tests to detect the presence a sexually transmitted disease. The tests shall be performed by a health care professional. The court shall require the health care professional who performs the test to disclose the test results to the defendant, to refrain from making the test results part of the defendants permanent medical record, and to disclose the results of the test to any of the following:</p> <p>(a) The alleged victim or victim, if the alleged victim or victim is not a minor.</p> <p>(b) The parent or guardian of the alleged victim or victim, if the alleged victim or victim is a minor.</p>

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	<p>(c) The health care professional who provides care to the alleged victim or victim, upon request by the alleged victim or victim or, if the alleged victim or victim is a minor, by the parent or guardian of the alleged victim or victim.</p> <p>(5) The court shall set a time for a hearing on the matter under sub. (2m) during the preliminary examination, if sub. (3) (a) applies; after the defendant is bound over for trial and before a verdict is rendered, if sub. (3) (b) applies; after conviction or a finding of not guilty by reason of mental disease or defect, if sub. (3) (c) applies; or, subject to s. 971.13 (4), after the determination that the defendant is not competent, if sub. (3) (d) applies. The court shall give the district attorney and the defendant notice of the hearing at least 72 hours prior to the hearing. The defendant may have counsel at the hearing, and counsel may examine and cross-examine witnesses. If the court finds probable cause to believe that the act or alleged act of the defendant that constitutes a violation of s. 946.43 (2m) carried a potential for transmitting a communicable disease to the victim or alleged victim and involved the defendants blood, semen, vomit, saliva, urine or feces or other bodily substance of the defendant, the court shall order the defendant to submit to a test or a series of tests administered by a health care professional to detect the presence of any communicable disease that was potentially transmitted by the act or alleged act of the defendant. The court shall require the health care professional who performs the test to disclose the test results to the defendant. The court shall require the health care professional who performs the test to refrain from making the test results part of the defendants permanent medical record and to disclose the results of the test to any of the following:</p> <p>(a) The alleged victim or victim, if the alleged victim or victim is not a minor.</p> <p>(b) The parent or guardian of the alleged victim or victim, if the alleged victim or victim is a minor.</p> <p>(c) The health care professional who provides care to the alleged victim or victim, upon request by the alleged victim or victim or, if the alleged victim or victim is a minor, by the parent or guardian of the alleged victim or victim.</p>

Wisconsin Administrative Code – Chapter HFS: Health and Family Services
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Chapter HFS WAC	Code Language
HFS 52.12	<p>Residential Care Centers for Children and Youth - Personnel.</p> <p>(5) STAFF TRAINING.</p> <p>(a) Approved by department. At the time of initial licensure and every 2 years thereafter, a center, prior to implementing training required under this subsection, shall submit to the department, for approval, a description of the process and content of orientation and initial training, including the number of training hours for all new staff who work with residents and a plan for establishing and meeting ongoing training needs for all staff who work with residents.</p> <p>(b) Orientation. Before a new staff member is permitted to work independently with residents, the center shall provide orientation training for the new staff member covering at least all of the following areas:</p> <p style="padding-left: 40px;">12. Sanitation and hygiene practices including the nature, causes, transmission and prevention of hepatitis B, human immunodeficiency virus (HIV) and acquired immunodeficiency syndrome (AIDS) and the legal, social and psychological aspects of those conditions.</p>
HFS 52.41	<p>Residential Care Centers for Youth and Children – Center Program</p> <p>(1) PROGRAM STATEMENT AND OPERATING PLAN. Each center shall have a written program statement describing center treatment purpose, philosophy, approach and methods used and services available, and a written operating plan describing available treatment and services as specified under pars. (a) to (c). A center shall give a copy of the current center program statement and, upon request, the center operating plan, and all updates, to each resident's placing person or agency and, if not the same, the resident's parents or guardian and legal custodian, if any. A center's operating plan shall describe all of the following:</p> <p>(c) Health care services. Health care services provided to residents that include needed preventive, routine and emergency medical and dental care through all of the following:</p> <p style="padding-left: 40px;">2. Education of residents by someone medically knowledgeable about the hazards of tobacco use, drugs and alcohol abuse and, where appropriate, about human sexuality, family planning materials and services, sexually transmitted diseases and how the human immunodeficiency virus (HIV) is transmitted.</p>
HFS 75.03	<p>General requirements.</p> <p>(1) APPLICABILITY. This section establishes general requirements that apply to the 13 types of community substance abuse services under ss. HFS 75.04 to 75.16. Not all general requirements apply to all services. Table HFS 75.03 indicates the general requirement subsections that apply</p>

Chapter HFS WAC	Code Language
	<p>to specific services.</p> <p>(11)(f) Information and referral relating to communicable diseases. The service shall provide patients with information concerning communicable diseases, such as sexually transmitted diseases (STDs), hepatitis B, tuberculosis (TB), and human immunodeficiency virus (HIV), and shall refer patients with communicable disease for treatment when appropriate.</p> <p>(21) COMMUNICABLE DISEASE SCREENING. Service staff shall discuss risk factors for communicable diseases with each patient upon admission and at least annually while the patient continues in the service and shall include in the discussion the patient's prior behaviors that could lead to sexually transmitted diseases (STDs), human immunodeficiency virus (HIV), hepatitis B and C or tuberculosis (TB).</p>
HFS 131.32	<p>Hospices - Administration</p> <p>(3) UNIVERSAL PRECAUTIONS. Hospices shall:</p> <p>(a) Develop and implement initial orientation and ongoing education and training for all hospice workers, including students, trainees and volunteers, in the epidemiology, modes of transmission and prevention of human immunodeficiency virus (HIV) and other blood-borne infections and the need for routine use of universal blood and body-fluid precautions for all patients;</p>
HFS 145.04	<p>Reports of communicable diseases.</p> <p>(1) RESPONSIBILITY FOR REPORTING.</p> <p>(a) Any person licensed under ch. 441 or 448, Stats., knowing of or in attendance on a case or suspected case shall notify the local health officer or, if required under Appendix A of this chapter, the state epidemiologist, in the manner prescribed in this section.</p> <p>(b) Each laboratory shall report the identification or suspected identification of a disease-causing organism or laboratory findings indicating the presence of a communicable disease to the local health officer or, if required under Appendix A of this chapter, to the state epidemiologist.</p> <p>(c) Each health care facility shall ensure that reports are made to the local health officer or, if required under Appendix A of this chapter, to the state epidemiologist, in the manner specified in sub. (3). When a case is identified or suspected in a health care facility having an organized program of infection control, the person in charge of the infection control program shall ensure that the case or suspected case is reported to the local health officer or, if required under Appendix A of this chapter, to the state epidemiologist, minimizing unnecessary duplication.</p>

Chapter HFS WAC	Code Language
	<p>(d) Any teacher, principal or nurse serving a school or day care center knowing of a case or suspected case in the school or center shall notify the local health officer or, if required under Appendix A of this chapter, the state epidemiologist, in the manner prescribed in this section.</p> <p>(e) Any person who knows or suspects that a person has a communicable disease shall report the facts to the local health officer or, if required under Appendix A of this chapter, to the state epidemiologist.</p> <p>(g) Nothing in this subsection lessens the requirement for confidentiality of HIV test results under s. 252.15, Stats.</p> <p>(2) CONTENT OF REPORT.</p> <p>(a) Each report under sub. (1) (a) to (d) of a case or suspected case of a communicable disease to the local health officer or the state epidemiologist shall include the name and address of the person reporting and of the attending physician, if any, the diagnosed or suspected disease, the name of the ill or affected individual, that individual's address and telephone number, age or date of birth, race and ethnicity, sex, county of residence, date of onset of the disease, name of parent or guardian if a minor, and other facts the department or local health officer requires for the purposes of surveillance, control and prevention of communicable disease.</p> <p>(b) Reports may be written or verbal. Written reports shall be on the individual case report form provided by the department and distributed by the local health officer or on a form containing the information required under par. (a). Reports shall be submitted to the local health officer or, if required under Appendix A of this chapter, to the state epidemiologist.</p> <p>(c) Reports by laboratories of the identification or suspected identification of a disease-causing organism or laboratory findings indicating the presence of a communicable disease shall be made to the local health officer or, if required under Appendix A of this chapter, to the state epidemiologist. These reports shall include the name of the individual affected or ill, the individual's address, telephone number, county of residence, age or date of birth, the name of the attending physician and the identity or suspected identity of the organism or the laboratory findings.</p> <p>(d) All information provided under this subsection shall remain confidential except as may be needed for the purposes of investigation, control and prevention of communicable diseases.</p> <p>(3) URGENCY OF REPORTS.</p> <p>(a) A person, laboratory or health care facility required to report under</p>

Chapter HFS WAC	Code Language
	<p>sub. (1) shall report communicable diseases of urgent public health importance as listed in category I of Appendix A of this chapter to the local health officer immediately upon identification of a case or suspected case. If the local health officer is unavailable, the report shall be made immediately to the state epidemiologist.</p> <p>(b) A person, laboratory or health care facility required to report under sub. (1) shall report communicable diseases of less urgent public health importance as listed in categories II and III of Appendix A of this chapter to the local health officer or, if required under Appendix A, to the state epidemiologist, by individual case report form or by telephone within 72 hours of the identification of a case or suspected case.</p> <p>(c) A person, laboratory or health care facility required to report under sub. (1) shall report the total number of cases or suspected cases of the other communicable diseases listed in Appendix A to the local health officer on a weekly basis.</p> <p>(4) HANDLING OF REPORTS BY THE LOCAL HEALTH OFFICER.</p> <p>(a) The local health officer shall notify the state epidemiologist immediately of any cases or suspected cases reported under sub. (3) (a).</p> <p>(b) At the close of each week, the local health officer shall notify the state epidemiologist in writing on a form provided by the department of all cases of reported diseases listed in Appendix A.</p> <p>(c) Local health departments serving jurisdictions within the same county may, in conjunction with the department, establish a combined reporting system to expedite the reporting process.</p>

Washington Administrative Code – Chapter Ins: Insurance Commissioner

Chapter Ins WAC	Code Language
Ins 3.53	<p>HIV testing.</p> <p>(1) FINDINGS. The tests listed in sub. (4) (e) have been specified by the state epidemiologist in part B (4) of a report entitled "Validated positive, medically significant and sufficiently reliable tests to detect the presence of human immunodeficiency virus (HIV), antigen or nonantigenic products of HIV or an antibody to HIV ," dated January 24, 1997. The commissioner of insurance, therefore, finds that these tests are sufficiently reliable for use in underwriting individual life, accident and health insurance policies.</p> <p>(2) PURPOSES. The purposes of this section are:</p> <p>(a) To implement s. 631.90 (3) (a), Stats.</p> <p>(b) To establish procedures for insurers to use in obtaining informed consent for HIV testing and informing individuals of the results of a positive HIV test.</p> <p>(c) To ensure the confidentiality of HIV test results.</p> <p>(d) To restrict the use of certain information on HIV testing in underwriting group life, accident and health insurance policies.</p> <p>(4) TESTING; USE; PROHIBITIONS.</p> <p>(a) For use in underwriting an individual life, accident or health insurance policy, an insurer may require that the person to be insured be tested, at the insurer's expense, for the presence of HIV, antigen or nonantigenic products of HIV or an antibody to HIV.</p> <p>(b) An insurer that requires a test under par. (a) shall, prior to testing, obtain a signed consent form, in substantially the format specified in Appendix A, either from the person to be tested or from one of the following if the specified condition exists:</p> <ol style="list-style-type: none"> 1. The person's parent or guardian, if the person is under 14 years of age. 2. The person's guardian, if the person is adjudged incompetent under ch. 54, Stats. 3. The person's health care agent, as defined in s. 155.01 (4), Stats., if the person has been found to be incapacitated under s. 155.05 (2), Stats. <p>(c) The insurer shall provide a copy of the consent form to the person who signed it and shall maintain a copy of each consent form for at least one year.</p> <p>(d) The insurer shall provide with the consent form a copy of the document, "Resources for persons with a positive HIV test/The</p>

Chapter Ins WAC	Code Language
	implications of testing positive for HIV." Each insurer shall either obtain copies of the document from the office of the commissioner of insurance or reproduce the document itself. If the document is revised, the insurer shall begin using the revised version no later than 30 days after receiving notice of the revision from the office of the commissioner of insurance.

Washington Administrative Code – Chapter RL: Regulation and Licensing

Chapter RL WAC	Code Language
RL 114.09	Conducting a Professional Bout - Stimulants prohibited. A second may only give a boxer water to drink during a bout. No manager or second may give any drug, narcotic or stimulant to a boxer before or during a bout. The department may require a boxer to submit to a drug test or HIV examination before a scheduled bout.