

/* California, part 2 of 3 */

Chapter 1.15

ACQUIRED IMMUNE DEFICIENCY SYNDROME (AIDS) VACCINE RESEARCH AND DEVELOPMENT GRANT PROGRAM

Section

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The Legislature finds and declares all of the following:

- (a) Over the past five years AIDS has reached an epidemic stage and is estimated to affect 30,000 Californians by 1990.
- (b) The estimated cost of medical care alone for the 4,000 AIDS cases that have occurred to date in California totals approximately two hundred fifty million dollars (\$250,000,000). By the end of 1990, medical care is projected to approach three billion five hundred million dollars (\$3,500,000,000) and the total public health and medical care expenditures are expected to exceed five billion dollars (\$5,000,000,000).
- (c) There is no cure for the AIDS virus. The long-term solution to the elimination of AIDS lies in conducting vaccine research.
- (d) Much research has already been completed by the private sector and should be utilized to the maximum extent possible, including supplementing with public funds.

(e) Profitmaking corporations are (1) not eligible for most of the existing public funding sources as are institutions of higher learning and nonprofit corporations; (2) when eligible, the public funding amounts are not adequate to conduct research; and (3) private grants are only available to nonprofit corporations.

(f) Moreover, private research companies, already having established vaccine development and manufacturing capabilities, are uniquely situated to maximize available resources and to utilize both management and research staff, equipment, and technical innovations to their greatest efficiency towards the specific goal of developing and manufacturing an AIDS vaccine at the earliest possible time.

(g) Exclusion of private corporations from public funding to develop an approved vaccine will likely result in (1) a delay in the development of a vaccine to prevent AIDS; (2) continued spread of AIDS to the general population; and (3) continued increases in private and public funds to provide care to AIDS victims.

(h) An AIDS Vaccine Research and Development Grant Program should be established to encourage AIDS vaccine research by the private sector.

(i) It is appropriate to mandate that a grant made to a private entity to develop an AIDS vaccine, once the vaccine has been approved by the FDA for use by the general population, should be reimbursed to the state from the sale of such a vaccine.

199.56. Program creation; AIDS vaccine research and development grant fund; definitions

(a) There is hereby created an AIDS Vaccine Research and Development Grant Program. There is hereby established an AIDS Vaccine Research and Development Grant Fund the moneys in which shall, upon appropriation to the State Department of Health Services, be available for the purposes of this chapter.

(b) For the purposes of this chapter:

(1) "AIDS" means acquired immune deficiency syndrome.

(2) "California manufacturer" means a manufacturer with management or officers based in this state and operations for the conduct of research and development of an AIDS vaccine in this state.

(3) "Committee" means the AIDS Vaccine Research and Development Advisory Committee.

(4) "Grant" means AIDS vaccine research and development grants.

199.57. AIDS vaccine research and development advisory committee; award of grants; review of requests for approvals or exemptions; membership; compensation

(a) There is hereby created the AIDS Vaccine Research and Development Advisory Committee within the State Department of Health Services which shall review and make recommendations to the state department regarding the award of the AIDS vaccine research and development grants. In accordance with Section 26679.5, the committee may also review requests for approvals for AIDS-related drugs pursuant to Section 26670, or for exemptions from these approval requirements pursuant to Section 26679. The membership of the committee shall be appointed by the State Director of Health Services within 30 days of the effective date of this chapter. The chairman of the committee shall be the State Director of Health Services, or his or her designee.

(b) The committee shall be composed of the following five members:

(1) The State Director of Health Services, or his or her designee.

(2) An expert in infectious disease and vaccine development to be appointed by the state department.

(3) The chief physician involved in the treatment of AIDS patients at San Francisco General Hospital, or his or her designee.

(4) The Chief of the Office of AIDS within the State Department of Health Services, or his or her designee.

(5) An expert in retroviruses/AIDS virus research to be appointed by the state department.

(c) Members of the committee shall serve without compensation but shall be reimbursed for any actual and necessary expenses incurred in connection with the performance of their duties under this chapter.

199.58. Request for proposal; publication; deadlines; recommendations and award of grants; criteria

(a) The State Department of Health Services shall issue within 60 days of the effective date of this chapter, a request for proposal (RFP) for research and development projects, based on the criteria provided in subdivision (d). Upon issuing the RFP the state department shall publish this fact along with the deadline for grant proposals in the newspapers with the greatest circula-

tion in the major cities of the state, as determined by the state department.

Additionally, upon issuing the RFP the same information shall be transmitted to the Secretary of the Senate and the Chief Clerk of the Assembly for publishing in the respective journals of each house of the California Legislature.

(b) Any California manufacturer may submit a proposal to the RFP for an AIDS vaccine research and development grant to the state department. The proposal shall be submitted to the state department within 90 days of the issuance of the RFP.

(c) Within 30 days after the proposal deadline, the committee shall review the proposals and make recommendations to the state department. The state department, taking into consideration the committee's recommendations, shall award grants to no more than three California manufacturers within 30 days after receiving the committee's recommendations.

(d) The state department, making use of an RFP, shall include a clear description of the criteria to be used to select the projects which will receive funding pursuant to this chapter. The committee shall make recommendations to the state department regarding the content of the RFP. The criteria shall include, but not be limited to, the following:

(1) The potential of the grant recipient to develop a vaccine for AIDS.

(2) The financial, technical, and managerial commitment of the grant recipient to the development of an AIDS vaccine.

(3) The demonstrated need of the grant recipient for state funding.

(e) The grants made pursuant to this chapter are not subject to the State Contract Act (Part 2 (commencing with Section 10100) of Division 2 of the Public Contract Code).

199.59. Grant recipients; development of AIDS vaccine; restrictions on expenditures; return of funds; grants after federal approval of testing on humans

(a) The recipients of the grants shall use the moneys of the grant to develop an AIDS vaccine until the Federal Food and Drug Administration (FDA) approves the clinical testing of an AIDS vaccine humans. Any grant funds not encumbered or expended at the time of the FDA approval of clinical testing of an AIDS vaccine on humans shall not be used by the recipients until the state department authorizes further expenditure or requires the funds to be returned to the AIDS Vaccine Research and Development Grant Fund

pursuant to subdivision (b).

(b) If an AIDS vaccine which has received FDA approval for clinical testing on humans has been developed by a grant recipient pursuant to this chapter, then any funds which have been granted but not expended or encumbered by, the grant recipient, after approval by the state department shall be expended for the clinical testing of the vaccine on humans in accordance with the FI protocol, the continued research and development of the vaccine, or both, for the purpose optimizing the efficacy of the vaccine during clinical testing.

With respect to the other grant recipients, or when none of the recipients have received the FI approval for the vaccine they are developing, the committee shall meet to consider whether the grant recipient has a good chance of developing a vaccine which will receive FDA approval for clinical testing on humans and shall make recommendations to the state department. If the state department, taking into consideration the committee's recommendations, determines that the grant recipient has a good chance of developing an FDA approved vaccine, it shall inform the grant recipient writing to continue expending its grant funds for the development of an AIDS vaccine.

If the state department, taking into consideration the committee's recommendations, determines that the grant recipient does not have a good chance of developing a vaccine which will receive FDA approval for clinical testing on humans, it shall inform the recipient in writing that the funds encumbered or expended, as described in subdivision (a), shall be returned to the state department for deposit in the AIDS Vaccine Research and Development Grant Fund.

Any funds remaining in the AIDS Vaccine Research and Development Grant Fund after the state department's determinations pursuant to this subdivision, shall, in the state department's discretion either be expended for (1) further support of the clinical trials of a vaccine developed in whole or part by a grant recipient or for (2) further research and development of a vaccine by a grant recipient who has been permitted, in accordance with this subdivision, to continue expending grant funds development of a vaccine, or be expended for (3) both purposes. If no grant recipient is conducting clinical trials or developing a vaccine pursuant to this subdivision, then the moneys in the AIDS Vaccine Research and Development Grant Fund shall revert to the General Fund.

(c) Notwithstanding any other provision of this section, the state department may make grants to applicants even after approval has been given by the federal Food and Drug Administration to conduct clinical testing of an AIDS vaccine on humans.

199.60. Reimbursement for grant by California manufacturer receiving FDA approval of vaccine for general public; repayment; royalty

If a California manufacturer that is a grant recipient sells, delivers, or distributes an AIDS vaccine which has received FDA approval for use by the general population and which was developed in whole or in part using a grant awarded pursuant to this chapter, the State of California shall be reimbursed for the grant as provided in this section.

Until the total amount of the grant is repaid, repayments in the amount of one dollar (~1) per dose from the sale of the AIDS vaccine shall be deposited by the grant recipient into the General Fund. Upon payment in full of the grant amount into the General Fund, a royalty on the sale of the vaccine from the grant recipient shall be deposited into the General Fund. The percentage amount of the royalty shall be negotiated at the time of the grant award.

Chapter 1.16

CALIFORNIA AIDS PROGRAM (CAP)

Section

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199.70. Legislative intent

The intent of the Legislature in enacting this chapter is as follows:

- (a) To fund specified pilot AIDS education programs.
- (b) To fund pilot projects to demonstrate the value of noninstitutional health care services such as hospice, home health, and attendant care in controlling costs and providing humane care to people with AIDS and AIDS-related conditions.
- (c) To fund clinical research.
- (d) To fund the development of an AIDS Mental Health Project.
- (e) To fund specified needs assessments, studies, and program evaluations.
- (f) To authorize the use of funds appropriated by Section 6 of Chapter 23 of the Statutes of 1985 for preventive education for individuals who are seropositive as a result of antibody testing.
- (g) To promote broad-based support for AIDS programs by encouraging community level networking and coordination of efforts among private sector, nonprofit, and public service agencies as well as health care professionals and providers of essential services.
- (h) To promote an aggressive community-based HIV infection prevention program in all communities and areas where behaviors and prevalence indicate high risk of HIV infection, and to encourage local programs to involve racial and ethnic minorities in a leading role to plan the development, implementation, and evaluation of preventive education, HIV testing, delivery of care, and research activities that are necessary to the formation of a comprehensive, community-based, culturally sensitive HIV infection

prevention strategy.

(i) To promote education of health care practitioners concerning new clinical manifestations of HIV, particularly among women and children.

199.71. Duties of department; power and duties of director

(a) The State Department of Health Services shall:

(1) Additionally, use funds appropriated by Section 6 of Chapter 23 of the Statutes of 1985 for purposes of making reimbursements to counties pursuant to Section 1632, for preventive education for individuals who are seropositive as a result of antibody testing.

(2) Issue contracts to evaluate the effectiveness of the AIDS information and education program conducted by the state department

(3) Issue contracts for development and implementation of pilot programs of professional education and training for hospital, home health agency, and attendant care workers.

(4) Issue contracts for the development and implementation of pilot programs to reduce the spread of AIDS through residential detoxification and outpatient detoxification and treatment services for intravenous drug users with AIDS or AIDS-related conditions.

(5) Monitor state and federal AIDS-related budget and policy development, and coordinate budget items to ensure that funding for matters related to AIDS is adequate and complete within the state department each fiscal year.

(6) Develop and maintain an information clearinghouse within the state department including periodic updates or releases to inform health professionals or community organizations providing services to people with AIDS or AIDS-related conditions of the status of current or new clinical drug trials. These updates shall be compiled through review of scientific journals and in conjunction with the UC AIDS Task Force and researchers conducting clinical drug trials in California.

(7) Review, edit, and input summaries from scientific journals into the Computerized AIDS Information Network (CAIN), and do outreach about CAIN availability to health professionals.

(8) Develop and conduct a needs assessment of the availability of supportive services for people with AIDS or AIDS-related conditions. The needs assessment shall be conducted in conjunction with the state's AIDS education contractors and with any public or private agencies providing services to people with AIDS or AIDS-related conditions.

(9) Promote information and education programs for the general public to correct misinformation about AIDS. This shall include, but need not be limited to, periodic press releases to the printed and broadcast media and public service announcements.

(10) Prepare a report to the Legislature on the feasibility of coordinating various levels of health care, including health facility licensure categories within one program in a city and county which would serve persons with HIV infections, AIDS-related complex, and AIDS. The levels of health care to be covered in the report include, but are not limited to, general acute care hospital, acute psychiatric hospital, skilled nursing facility, hospice, intermediate care facility, residential care facility, adult day health care facility, and congregate living health facility. The report shall be developed in cooperation with the Office of Statewide Health Planning and Development, and shall be submitted to the Legislature before July 1, 1990. The State Director of Health Services may contract for services necessary for completion of the report that cannot be provided through existing resources of the state department.

(11) Establish, with the assistance of other state agencies as the state department deems appropriate, centralized translation services to facilitate development of multilanguage, culturally relevant educational materials on HIV infection.

(12) Include, to the extent feasible, in its HIV surveillance and reporting practices, a breakdown of the major Asian-Pacific Islander subgroup populations. This breakdown shall be reflected in the surveillance and morbidity statistics issued by the director pursuant to Section 199.73.

(13) Include, to the extent feasible with existing resources, in its HIV surveillance and reporting practices, information concerning newly identified clinical manifestations of HIV infection and available resources for health care practitioners to seek diagnostic and treatment information.

(b) The State Director of Health Services shall contract for a prospective two-year study to accomplish the following objectives:

(1) Determine the medical costs of AIDS, comparing inpatient care, outpatient care, physician services, and community support services.

(2) The study shall include cost factors in the review of inpatient costs which may not be apparent in the analysis of charges, such as private rooms and social work.

The study shall include an interim report to the Legislature six months after receipt of funding and a final report to the Legislature within two years of receipt of funding so that the state can be in a knowledgeable position to plan for and provide the services and funding needed to meet this public

health crisis.

(c) Notwithstanding Chapter 2 (commencing with Section 10290) of Part 2 of Division 2 of the Public Contract Code, if the State Director of Health Services determines that it is in the best interest of the state to enter into a contract for the purposes specified below without competitive bids, then the state director may, during the 195586 fiscal year, enter into a sole source contract for all of the following:

- (1) Educational program evaluation.
- (2) Education of hospital, home health agency, and attendant care workers.
- (3) Drug education and treatment programs.
- (4) The cost-of-care study.

(d) Notwithstanding Chapter 2 (commencing with Section 10290) of Part 2 of Division 2 of the Public Contract Code, if the State Director of Health Services determines that it is in the best interest of the state to enter into a contract for the purposes of the preparation of the feasibility report required by paragraph (10) of subdivision (a) without competitive bids, then the state director may enter into a sole source contract for the preparation of the feasibility report. The contract for the feasibility report shall be exempt from the requirement of approval by the Department of General Services and the Department of Finance.

199.715. Housing and food for homeless persons with AIDS; pilot projects; zoning; duration of section

The state department may approve up to 35 pilot projects to provide housing and food for homeless persons who have AIDS or symptomatic HIV disease. The state department may provide funding to a selected number these 1 pilot projects. All approved pilot projects shall enter into a contract with the state department, which shall define the conditions for participation as pilot projects. Notwithstanding Chapter 2 (commencing with Section 1250) and Chapter 3 (commencing with Section 1500) of Division 2, an approved pilot project shall not be required to be licensed if it is organized and operated for the purpose of providing room and board to homeless persons with AIDS or symptomatic HIV disease and it is not organized and operated to directly provide medical or nursing care.

The pilot projects shall maintain a written agreement for referral and acceptance of residents with at least one registered nurse case manager, general acute care hospital, and licensed home health agency. The contract requirements for the pilot projects shall include the criteria and protocols

which the state department determines are appropriate to ensure that the health, safety, and welfare of residents are protected. The state department may additionally provide for or enter into a contract for evaluation and assessment related to the approved pilot projects.

This chapter shall not preempt the application of any local zoning requirements in effect on January 1, 1990, to a residential AIDS shelter pilot project for homeless persons with AIDS or * * * symptomatic HIV disease.

The implementation of these pilot projects shall not be subject to the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

This section shall become inoperative on July 1, 1995, and as of January 1, 1996, is repealed, unless a later enacted statute which becomes effective on or before January 1, 1996, deletes or extends the date on which it becomes inoperative and is repealed.

199.716. Funding to residential AIDS shelters and care facilities for persons with chronic life-threatening illness; supplemental grants

(a) The state department may provide supplemental funding to residential AIDS shelters in accordance with Section 199.715, as long as that section is operative, and to residential care facilities for persons with a chronic, life-threatening illness, which are licensed in accordance with Chapter 3.01 (commencing with Section 1568.01) of Division 2.

(b) A residential AIDS shelter which receives a supplemental grant and subsequently is licensed as a residential care facility for persons with a chronic, life-threatening illness prior to the end of the grant period shall be entitled to the full amount of the supplemental grant.

199.72. Personal data; confidentiality

(a) Personal data in any investigations, reports, and information relating thereto shall be kept confidential and be afforded protections provided by Section 211.5, except as provided by Section 1603.1 or 1603.3.

(b) If patient-identifying information is subpoenaed from the state department, the state department shall seek and the court shall issue a protective order keeping this information confidential. The court order may require production, but limit the use and disclosure of, records, require production with names and identifying information deleted, provide sanctions for misuse of records or set forth other methods for assuring confidentiality.

199.73. Duties of state director of health services

The State Director of Health Services shall:

- (a) Be prepared to report to the Legislature on the amounts and recipients of contracts or block grant awards, and needs assessments conducted by the state department.
- (b) Issue once each month a public information release to the state contractors, local health departments, medical societies or organizations, nursing associations, hospital and hospital administrator associations, blood banks or centers, hemophilia associations and treatment centers, lesbian and gay health organizations, media outlets or community organizations, and other interested organizations or individuals, and the news media identifying research breakthroughs, new treatment protocols, infection control updates, surveillance and morbidity statistics, and other current and up-to-date information regarding AIDS education, treatment, or patient service programs.

199.74. Pilot projects to demonstrate cost effectiveness of various care initiated through block grant program

Pilot projects to demonstrate the cost effectiveness of home health, attendant, or hospice care shall be initiated through a block grant program, as described in this section.

- (a) The state director shall designate the contractors and the amounts that contractors will receive for the block grant direct service demonstration projects.
- (b) An amount of not more than 10 percent of the grant may be retained by contractors for administrative overhead. Contractors accepting block grant funds shall compile comparative cost data reports for transmission to the department and the Legislature. Reports shall be made semiannually until the conclusion of the project.
- (c) Contractors receiving direct service block grants shall:
 - (1) Encourage broad-based community involvement and support for AIDS programs and involve charitable, other nonprofit, and other agencies as well as health care professionals as providers of essential services.
 - (2) Ensure the proposed services are not duplicated in the community and are based on the needs of people with AIDS, AIDS-related conditions, at-risk communities, their families or others affected by AIDS.
 - (3) Make maximum use of other federal, state, and local funds and pro-

grams.

(4) Provide services which are culturally and linguistically appropriate to the population served.

(c) Counties with existing programs of demonstrated effectiveness in AIDS education or services shall receive equal consideration with other applicants and shall not be penalized when awarding funds pursuant to this chapter with respect to the proposed expansion of their programs.

(d) Contractors shall develop a comprehensive service system including, but not limited to, the following essential services, which can be provided either directly by the contractors or indirectly through a referral network arranged by the contractor:

(1) Provision for hospice, skilled nursing facility, home health care, and homemaker chore services.

(2) Individual consultation and health planning and assessment.

(3) Information for people with AIDS or AIDS-related conditions regarding death and dying.

(4) Evaluation and referral services for medical care.

(5) Referral services for mental health services, as appropriate.

(6) Assistance in applying for financial aid or social services which are available and for which clients qualify.

The system of essential services developed by a contractor shall offer maximum opportunity for involvement of family, friends, domestic partners and of nonprofit and charitable organizations in preventing the severe, adverse health and social consequences which result from being diagnosed with AIDS or AIDS-related conditions.

(e) The direct service program for provision of essential services shall ensure:

(1) An ongoing quality assurance program.

(2) Confidentiality assurances and methods for developing interagency confidentiality agreements.

199.741. Private health insurance premiums of participants; payment to extent cost-effective.

(a) The state department shall amend the home health, hospice, and

attendant care pilot projects funded pursuant to this chapter, to include, to the extent that it is cost-effective to the Medi-Cal program or the General Fund, the payment of private health insurance premiums for participants in the pilot projects prior to the participants becoming eligible for Medi-Cal.

(b) The director shall make a determination of cost effectiveness, which shall be reviewed by the Department of Finance. The director may use existing budgeted resources for services provided for pursuant to subdivision (a).

199.75. AIDS mental health project; establishment; coordination of projects and resources; advisory groups; sole source contract

The Department of Mental Health shall establish an AIDS mental health project, as described in this section.

(a) The program should include, but need not be limited to, the following:

(1) The conduct of a statewide needs assessment of AIDS-related mental health issues.

(2) The conduct of education and training for mental health professionals throughout the state.

(3) The conduct, through the Office of Promotion, of a media campaign on such issues as the use of support groups, the relationship between stress and the immune system, and dealing with grief.

(b) The Department of Mental Health shall coordinate projects and resources directly with the State Department of Health Services.

(c) The Director of the Department of Mental Health may appoint advisory groups for this project as needed.

(d) Notwithstanding any provision of Chapter 2 (commencing with Section 10290) of Part 2 of Division 2 of the Public Contract Code, if the Director of Mental Health determines that it is in the best interest of the state to enter into a contract for the purposes specified in this section without competitive bids, then the director may, during the 1985-86 fiscal year, enter into a sole source contract for these purposes.

199.76. Initiation of pilot programs through local agency operated AIDS-related substance abuser programs

Pilot programs to reduce the spread of AIDS through residential detoxification and outpatient detoxification and treatment services for intravenous drug

users, as described in paragraph (4) of subdivision (a) of Section 199.71, shall be initiated through local agency operated AIDS-related substance abuser programs.

(a) The director shall designate the local agency contractors and the amounts that these contractors will receive for the AIDS-related substance abuser demonstration programs.

(b) The contractors shall develop a comprehensive service system including, but not limited to, the following essential services, which can be provided either directly by the contractors or through a referral network arranged by the contractors:

- (1) Residential detoxification programs for intravenous drug users.
- (2) Outpatient detoxification programs including health promotion and health assessment for intravenous drug users.
- (3) AIDS and substance abuse information, consultation and resource referral to providers of services to AIDS patients and to drug treatment providers.
- (4) Outreach, health promotion, health assessment, consultation and referrals for homeless youth substance abusers.

199.77. Appropriation allocation to University of California; considerations and priorities in expending of funds

The amount of two million three hundred thousand dollars (\$2,300,000), appropriated pursuant to Section 2 of this act, shall be allocated to the University of California for research into AIDS. When expending these funds, the university shall solicit and consider proposals from within the University of California system and from universities and colleges outside the University of California system as well. In the expenditure of these funds, it is the preference of the Legislature that priority be given to viral cultures, clinical trials, and the administrative and laboratory support services necessary to conduct such trials.

199.78. Home and community-based services to eligible persons; payment of costs; federal financial participation; waiver of regulations and policies

(a) The state department may use funds appropriated to it to pay the costs, including reimbursements to contractors for administrative costs, of providing home and community-based services to eligible persons with a diagnosis of acquired immune deficiency syndrome (AIDS) or AIDS related

conditions (ARC) when the funds are appropriated for that purpose.

(b) To the extent that federal financial participation is available, each department within the Health and Welfare Agency, including departments designated as single state agencies for public social services programs, shall waive regulations and general policies and make resources available when necessary for the provision of home and community-based care services to eligible persons with a diagnosis of AIDS or ARC.

199.78.5. Program of prevention, education, testing and counseling of women and children; integration with existing programs; services addressed

(a) The state department shall, in coordination with the State Department of Alcohol and Drug Programs, develop a plan which assesses the need for, a program of acquired immune deficiency syndrome (AIDS) primary prevention, health education, testing, and counseling, specifically designed for women and children, which shall be integrated, as the department deems appropriate, into the following programs:

- (1) The California Children's Services Program provided for pursuant to Article 2 (commencing with Section 248).
 - (2) Programs under the Maternal and Child Health Branch of the department.
 - (3) The Child Health Disability Prevention Program provided for pursuant to Article 3.4 (commencing with Section 320).
 - (4) The Genetic Disease Program, provided for pursuant to Sections 309 and 309.5.
 - (5) The Family Planning Programs, provided for pursuant to Chapter 8.5 (commencing with Section 14500) of Part 3 of Division 9 of the Welfare and Institutions Code.
 - (6) The Rural and Community Health Clinics Program.
 - (7) The County Health Services Program, provided for pursuant to Part 4.5 (commencing with Section 16700) of Part 3 of Division 9 of the Welfare and Institutions Code.
 - (8) The Sexually Transmitted Disease Program.
 - (9) Programs administered by the State Department of Alcohol and Drug Programs.
- (b) The AIDS-related services which shall be addressed in the plan specified in this section shall include, but not be limited to, all of the

following:

- (1) A variety of educational materials which are appropriate to the cultural background and educational level of the program clientele.
- (2) The availability of confidential HIV antibody testing and counseling either onsite or by referral.
- (c) Pursuant to subdivision (a), the plan shall include a method to provide the educational materials specified in subdivision (b) and appropriate AIDS-related training programs for those persons who provide direct services to women and children receiving services under the programs specified in this section.
- (d) In order that the AIDS-related services plan provided through the programs specified in this section be as effective as possible, the state department shall ensure that the educational materials and training programs provided for each program specified in subdivision (a) are developed in coordination with, and with input from, each of the respective programs.
- (e) Nothing in this section shall preclude the state department from incorporating the plan requirements into the department's annual state AIDS plan, or any other reporting document relating to AIDS deemed appropriate by the department.

CALIFORNIA DEPT. OF ALCOHOL & DRUG PROGRAMS

11758.50. Legislative findings and declarations

The Legislature find and declares all of the following:

- (a) Alcohol and other drug related problems are a health issue which dramatically impact California's county programs and county budgets.
- (b) Alcohol not only affects the individual involved but potentially extends to the many county programs which involve these individuals and their families.
- (c) Additionally, drug abuse and especially intravenous drug abuse relates directly to the contracting and spreading of AIDS.
- (d) Drug and alcohol, and their health and welfare related costs are already straining local government budgets.
- (e) There are approximately 225,000 habitual needle using drug addicts and an additional 200,000 recreational intravenous drug users in the state.

(f) The relationship of intravenous drug users and the transmission of AIDS is well-documented. AIDS cases, currently estimated to cost almost one hundred thousand dollars (\$100,000 from diagnosis-to-death, are catastrophic to those budgets.

11758.51. San Luis Obispo county; establishment of in-home project; administration; implementation on availability of state funds; termination

The department shall provide funding, for the 1990-91 fiscal year, for in-home alcohol detoxification, and intravenous drug user AIDS education pilot project to be established in San Luis Obispo County. The pilot project shall be administered by the alcohol and drug program department of the county. The pilot project shall be required to be implemented only to the extent that state funds are provided. The pilot project shall terminate on July 1, 1991, except as otherwise specified by the county.

11758.52. Treatment of drug and alcohol abusers; client contact

(a) The pilot project created pursuant to this chapter shall treat drug and alcohol abusers through a county administered in-home detoxification and AIDS education program.

(b) The client contact shall be through a public health nurse who shall provide all of the following;

- (1) Information and monitoring of the detoxification period.
- (2) Information and educational materials on drug and alcohol abuse.
- (3) Information on the contracting and transmission of AIDS via intravenous drug use.
- (4) Information and contacts with drug and alcohol, and AIDS support groups.

11758.53. Administration criteria

The pilot project shall be administered in accordance with criteria agreed upon by the department and San Luis Obispo County.

11758.54. Evaluation; collection of monitoring and outcome data; analysis and discussion of successful completion of program objectives

(a) The department, in cooperation with San Luis Obispo County, shall evaluate the pilot project created pursuant to this chapter. The evaluation shall include numbers of intravenous (IV) drug users in target counties, status of HIV test results among alcoholics and IV drug users not in recovery, drug and alcohol-related jail intakes, and repeat offenses. Changes in the above data following completion of the in-home detoxification project shall be carefully scrutinized. Particular attention shall be paid to changes in incidence of HIV test results among individuals requesting testing from the San Luis Obispo County health department and repeat alcohol- and drug-related offenses as tracked by the county jail, municipal court, and Department of Motor Vehicles.

(b) Additional monitoring and outcome data shall be collected regarding clients of the in-home detoxification pilot project, which shall include each of the following;

- (1) Client health status at time of intake screening.
- (2) Clients' health status during detoxification.
- (3) Clients' health status after detoxification.
- (4) Status and results of HIV testing for those choosing the test.
- (5) Numbers of detoxification referrals completed.
- (6) Numbers of successful referrals to followup.
- (7) Rate of subsequent rearrest.

(c) The degree of successful completion of program objectives shall also be analyzed and discussed. Analysis shall be based on results of monitoring instruments designed for the in-home detoxification project which shall include all of the following:

- (1) Numbers of referrals to the in-home detoxification project initiated.
- (2) Numbers of clients (both detoxification clients and family members) who successfully meet educational criteria related to AIDS education.
- (3) Numbers of detoxification referrals completed.
- (4) Numbers of successful referrals to followup treatment.
- (5) Rate of subsequent rearrest.

(d) The department shall submit an evaluation of the pilot project to the Governor and the Legislature not later than July 1, 1992.

(e) Blood testing and test result disclosure shall be in accordance with

Chapter 1.11 (commencing with Section 199.20) and Chapter 1.12 (commencing with Section 199.30) of Part 1 of Division 1.

199.716. Funding to residential AIDS shelters and care facilities for persons with chronic life-threatening illness; supplemental grants

(a) The state department may provide supplemental funding to residential AIDS shelters in accordance with Section 199.715, as long as that section is operative, and to residential care facilities for persons with a chronic, life threatening illness, which are licensed in accordance with Chapter 8.01 (commencing with Section 1568.01) of Division 2.

(b) A residential AIDS shelter which receives a supplemental grant and subsequently is licensed as a residential care facility for persons with a chronic, life-threatening illness prior to the end of the grant period shall be entitled to the full amount of the supplemental grant.

199.741. Private health insurance premiums of participants; payment to be cost-effective

(a) The state department shall amend the home health, hospice, and attendant care pilot projects funded pursuant to this chapter, to include, to the extent that it is cost effective to the Medi-Cal program or the General Fund, the payment of private health insurance premiums for participants in the pilot projects prior to the participants becoming eligible for Medi-Cal.

(b) The director shall make a determination of cost effectiveness, which shall be reviewed by the Department of Insurance. The director may use existing budgeted resources for services provided for pursuant to subdivision (a).

199.79. Review of programs; target populations; unmet and projected needs; report

(a) The state department, in consultation with the State Department of Alcohol and Drug Programs, shall review existing programs administered by the state department, the State Department of Alcohol and Drug Programs, or both which provide services to persons with AIDS or ARC or persons at risk of becoming infected with HIV to identify whether there are unmet needs in targeting these programs to substance abusers, racial and ethnic minority populations, and women. In reviewing the existing programs, the state department shall consider the provision of care by the existing programs

outside of a general acute care hospital setting to substance abusers, racial and ethnic minority populations, and women by taking into account the current availability of beds outside of a hospital setting, the availability of those beds to substance abusers, racial and ethnic minority populations, and women, and the projected need for additional beds outside of a hospital setting for substance abusers, racial and ethnic minority populations, and women.

(b) The state department shall take into account the unmet needs of substance abusers, racial and ethnic minority populations, and women as identified pursuant to subdivision (a) in its planning and development of programs which provide services to persons with AIDS and ARC.

(c) The state department shall report its findings pursuant to this section on or before April 1, 1991. The report shall include, but not be limited to, recommendations suggesting programmatic changes deemed appropriate by the state department that would better meet the needs of substance abusers, racial and ethnic minority populations, and women with, or at risk of becoming infected with, HIV, and the fiscal considerations for implementing the recommendations.

199.80. Alkyl nitrites sales, warning signs

(a) Every person who sells alkyl nitrites shall at the point of sale of the alkyl nitrites, post a sign measuring no less than five by seven inches to read as follows: "Warning: These products contain alkyl nitrites ('poppers'). Inhaling or swallowing alkyl nitrites may be harmful to your health. The use of alkyl nitrites may affect the immune system. Several studies have suggested that their use is associated with the development of Kaposi's sarcoma (an AIDS condition)."

(b) The signs required by subdivision (a) shall be furnished by the manufacturers or distributors of alkyl nitrites in California in sufficient quantity with the shipments of alkyl nitrites to allow posting at all points of sale.

(c) "Point of sale" for purposes of this section is that place within close proximity of the shelves or other area where the alkyl nitrites are displayed for consumer purchase.

Chapter 1.17 AIDS INFORMATION

Section

199.81. Providing information to school districts on AIDS, AIDS related conditions, and Hepatitis B; vaccination costs covered by employee health plan benefits.

199.82. Information to employees of school district.

199.81. Providing information to school districts on AIDS, AIDS related conditions, and Hepatitis B; vaccination costs covered by employee health plan benefits

The State Department of Education shall provide information to school districts on acquired immune deficiency syndrome (AIDS), on AIDS-related conditions, and on Hepatitis B. This information shall include, but not be limited to, any appropriate methods school employees may employ to prevent exposure to AIDS and Hepatitis B, including information concerning the availability of a vaccine to prevent contraction of Hepatitis B, and that the cost of vaccination may be covered by the health plan benefits of the employees. This information shall be compiled and updated annually, or if there is new information, more frequently, by the State Department of Education in conjunction with the State Department of Health Services and in consultation with the California Conference of Local Health Officers. In order to reduce costs, this information may be included as an insert with other regular mailings to the extent practicable, and the information required to be provided on Hepatitis B shall be provided in conjunction with the information required to be provided on AIDS.

199.82. Information to employees of school district

School districts shall inform their employees annually, or if there is new information, more frequently, of the information compiled by the State Department of Education pursuant to Section 199.81.

CHAPTER 1.19. VACCINE TO PREVENT MATERNAL TRANSMISSION OF AIDS

Section 199.86. Legislative findings and declarations.

199.87. Definitions.

199.88. Informed consent.

199.89. liability of manufacturer, research institution, or researcher; legislative intent; scope of immunity.

199.90. Research subjects; eligibility.

199.91. AIDS vaccine clinical trial grant awards for the prevention of maternal transmission of HIV infection.

199.92. Reimbursement for amount of grant; royalties.

199.93. Legislative intent; expert representation on committee.

199.86. Legislative findings and declarations.

The Legislature finds and declares all of the following:

(a) Nearly 90 percent of the cases of pediatric AIDS in the United States occur as a result of maternal infant transmission.

(b) It is estimated that from 13 to 45 percent of infants born to HIV-infected mothers will acquire HIV either in utero, during delivery, or postpartum.

(c) In 1990, the number of cases of AIDS in women in the United States increased by 34 percent compared to an increase of 18 percent in men. As a consequence of this increased dissemination of HIV in women, there has been a concomitant increase in the number of HIV infected infants.

(d) Approximately 6,000 children were born to HIV-infected women in the United States in 1990. This resulted in 1,500 to 2,000 newly infected infants. Internationally, it is estimated that one million children acquired HIV through maternal transmission in 1990.

(e) HIV infection that is transmitted maternally progresses more rapidly than HIV infection in adults, with most infants developing advanced symptoms of infection within 18 months. Costs for care of infants infected with HIV have been estimated to be comparable or higher than the cost of treating HIV-related illness in adults. Currently, limited data exists for the costs of treating HIV infected children. A recent estimate for those costs is as follows:

(1) For the mean lifetime hospital costs per child: ninety thousand dollars (\$90,000).

(2) For the mean annual cost per child hospitalized all year: two hundred nineteen thousand dollars (\$219,000). A significant portion of pediatric hospital costs may be due to a prolonged hospitalization because of the lack of foster homes for children.

(3) For the estimated annual medicaid cost eighteen thousand dollars (\$18,000) to forty-two thousand dollars (\$42,000).

(4) In comparison, recent estimates of the national cost of treating an adult with HIV and without AIDS is five thousand dollars (\$5,000) per year and the average cost of treating an adult person with AIDS is thirty-two thousand dollars (\$32,000) per year of which twenty-four thousand dollars (\$24,000) is inpatient costs and eight thousand dollars (\$8,000) for other services.

(f) AIDS vaccines are now available for testing in FDA-approved clinical trials in HIV-infected pregnant women for the purpose of protecting against HIV transmission from mother to child.

(g) Manufacturers are hesitant to conduct these trials because of the combined threat of liability and the limited market to reimburse the research and clinical trial investment.

(h) The California Legislature wishes to encourage FDA-approved AIDS vaccine clinical trials to protect against maternal HIV transmission from mother to child, that may also provide a therapeutic effect in the HIV-infected mother. It is appropriate to mandate that grants be made to encourage qualified manufacturers to conduct these trials for the benefit of California citizens.

199.87. Definitions

For the purposes of this chapter, the following definitions apply:

(a) "AIDS" means acquired immune deficiency syndrome.

(b) "An HIV positive individual" means an individual who is infected with the AIDS virus.

(c) "Committee" means the AIDS Vaccine Research and Development Advisory Committee established pursuant to Section 199.57.

(d) "Grant award" means an AIDS Vaccine Clinical Trial Grant Award for the Prevention of Maternal Transmission of HIV Infection.

(e) "AIDS vaccine," for the purposes of this chapter, means a vaccine that has been developed by a manufacturer and is being tested and administered for the purposes of determining whether immunization of HIV-infected pregnant women will protect against maternal transmission of the AIDS virus. Clinical trials must be conducted under an investigational new drug (IND) application on file with the federal Food and Drug Administration (FDA).

(f) "Research subject" means a person who is administered an AIDS vaccine, or a fetus of a woman administered an AIDS vaccine, or a child born to a woman administered an AIDS vaccine during pregnancy.

(g) "Researcher" means a person employed by or affiliated with a manufacturer or a research institution, who participates in the development or testing or administration of an AIDS vaccine, or who is involved in the diagnosis and treatment of a research subject.

199.88. Informed consent

A manufacturer, research institution, or researcher shall, prior to the administration of an AIDS vaccine to a research subject, obtain that woman's informed consent, which shall comply with all applicable statutes and regulations.

(a) The informed consent shall contain a statement that significant new findings developed during the course of the research which may relate to the subject's willingness to continue participation will be provided to the subject

(b) A copy of the informed consent shall be maintained with the woman's medical records.

199.89. Liability of manufacturer, research institution, or researcher; legislative Intent; scope of immunity

(a) A manufacturer, research institution, or researcher shall not be strictly liable for person injury or wrongful death resulting from the administration of any AIDS vaccine to a research subject participating in the clinical trials described in this chapter.

(b) It is the intent of the Legislature in enacting this section to confer upon manufacturer~, research institutions, and researchers participating in the clinical trials described in this chapter an immunity from liability to the same extent as conferred upon specified pharmaceutical manufacturers under *Brown v. Superior Court*, 44 Cal.3d 1049.

(c) No immunity shall be conferred to the extent that the injury or death was caused by the negligence, gross negligence, or reckless, willful, or wanton misconduct of the manufacturer, research institution, or researcher or the manufacturer, research institution, or the researcher has failed to comply with Section 199.88.

(d) The immunity provided by this section shall not apply to a manufacturer, research institution, or researcher who intentionally provided false information to the FDA in connection with an IND application.

(e) Notwithstanding the immunity provided by this section, nothing in this section shall be construed to affect the inapplicability or applicability of the holding in *Brown v. Superior Court*, 44 Cal.3d 1049 to other situations involving the same or similar conduct.

199.90. Research subjects; eligibility

No person shall be denied the opportunity to be a research subject because

of the inability to pay for medical treatment 199.91. AIDS vaccine clinical trial grant awards for the prevention of maternal transmission of HIV infection

There is hereby created the AIDS Vaccine Clinical Trial Grant Award for the Prevention of Maternal Transmission of HIV Infection. Moneys within the AIDS Clinical Trials Testing Fund, established in accordance with Section 199.47, shall, upon appropriation by the Legislature, be available to the State Department of Health Services for the purposes of this chapter, which shall include a onetime amount of sixty thousand dollars (\$60,000) for the state department to develop and process the request for proposal as specified in subdivision (a). Grant awards shall be made available to not more than three manufacturers of an AIDS vaccine approved by the FDA for clinical trials in HIV-positive pregnant women. The purpose is to expedite the completion of an AIDS vaccine to prevent maternal transmission of HIV. The funds are to be used for FDA approved clinical trials.

(a) The state department shall issue a request for proposal (RFP) for the clinical trials of an AIDS vaccine to prevent maternal transmission of HIV infection.

(1) The RFP shall be based on the criteria provided in subdivision (d).

(2) Upon issuing the RFP, the state department shall publish this fact along with the deadline for grant proposals in the newspapers with the greatest circulation in the major cities of the state, as determined by the state department. Additionally, upon issuing the RFP, the same information shall be transmitted to the Secretary of the Senate and the Chief Clerk of the Assembly for publishing in the respective journals of each house of the Legislature.

(b) Any manufacturer may submit a proposal for the grant award in the response to the RFP issued by the state department.

(c) The state department, taking into consideration the committee's recommendations, shall, for purposes of this chapter, award grants to no more than three California manufacturers after receiving the committee 5 recommendations.

(d) The state department, making use of an RFP, shall include a clear description of the criteria to be used to select the projects which will receive funding pursuant to this chapter. The committee shall make recommendations to the department regarding the content of the RFP. The criteria shall include, but not be limited to, the following:

(1) The potential of the grant recipient to develop a vaccine for the prevention of maternal transmission of HIV infection.

(2) The financial, technical, and managerial commitment of the grant recipient to the development of the vaccine.

(3) The commitment of the grant recipient to agree to provide medical treatment, either directly or through reasonable health insurance coverage, to the participant for any injury caused by the AIDS vaccine in the clinical trial. This agreement shall also be included as part of the participant's informed consent pursuant to Section 199.87.

(e) Grant awards may be made without limitation on the amount of funding from the AIDS Clinical Trials Testing Fund that may be allocated to a single manufacturer, provided that the committee has determined that the grant award is in the public interest.

199.92. Reimbursement for amount of grant; royalties

If a manufacturer that is a grant recipient sells, delivers, or distributes an AIDS vaccine that has received FDA approval for use by the general population and that was developed in whole or in part using a grant awarded pursuant to this chapter, the State of California shall be reimbursed for the grant as provided in this section. Until the total amount of the grant is repaid, repayments in the amount of one dollar (\$1) per dose from the sale of the AIDS vaccine shall be deposited by the grant recipient into the General Fund. Upon payment in full of the grant amount into the General Fund, a royalty on the sale of the vaccine from the grant recipient shall be deposited into the General Fund. The percentage amount of the royalty shall be negotiated at the time of the grant award.

199.93. Legislative intent; expert representation on committee

It is the intent of the Legislature for the State Department of Health Services to make every effort possible to insure a comprehensive and diverse expert representation on the committee. It is the intention of the Legislature to ensure that expert members of the committee include, but are not limited to, ethnic minorities and women.

Chapter 1.20 AIDS PUBLIC SAFETY AND TESTING DISCLOSURE Section

199.95. Purpose.

199.96. Sexual crimes.

199.97. Assaults on officers.

199.98. Testing.

199.99. Custodial safety.

199.95. Purpose

The people of the State of California find and declare that AIDS, AIDS related conditions, and other communicable diseases pose a major threat to the public health and safety. The health and safety of the public, victims of sexual crimes, and peace officers, firefighters, and custodial personnel who may come into contact with infected persons, have not been adequately protected by law. The purpose of this chapter is to require that information that may be vital to the health and safety of the public, victims of certain crimes, certain defendants and minors, and custodial personnel, custodial medical personnel, peace officers, firefighters and emergency medical personnel put at risk in the course of their official duties, be obtained and disclosed in an appropriate manner in order that precautions can be taken to preserve their health and the health of others or that such persons can be relieved from groundless fear of infection. It is the intent of this chapter to supersede in case of conflict existing statutes or case law on the subjects covered including but not limited to the confidentiality and consent provisions contained in chapters 1.11, 1.12, and 1.13 of Part 1 of Division 1 of the Health and Safety Code.

199.96. Sexual crimes

Any defendant charged in any criminal complaint filed with a magistrate or court with any violation of Penal Code Sections 261, 261.5, 262, 266b, 266c, 286, 288, or 288a and any minor with respect to whom a petition has been filed in a juvenile court alleging violation of any of the foregoing laws, shall be subject to an order of a court having jurisdiction of the complaint or petition requiring testing as provided in this chapter. If an alleged victim listed in the complaint or petition makes a written request for testing under this section, the prosecuting attorney, or the alleged victim may petition the court for an order authorized under this section. The court shall promptly conduct a hearing upon any such petition. If the court finds that probable cause exists to believe that a possible transfer of blood, saliva, semen, or other bodily fluid took place between the defendant or minor and the alleged victim in an act specified in this section, the court shall order that the defendant or minor provide two specimens of blood for testing as provided in this chapter. Copies of the test results shall be sent to the defendant or minor, each requesting victim and, if the defendant or minor is incarcerated or detained, to the officer in charge and the chief medical officer of the facility in which such person is incarcerated or detained.

199.97. Assaults on officers

Any person charged in any criminal complaint filed with a magistrate or court and any minor with respect to whom a petition has been filed in juvenile court, in which it is alleged in whole or in part that the defendant or minor interfered with the official duties of a peace officer, firefighter, or emergency medical personnel by biting, scratching, spitting, or transferring blood or other bodily fluids on, upon, or through the skin or membranes of a peace officer, firefighter, or emergency medical personnel shall in addition to any penalties provided by law be subject to an order of a court having jurisdiction of the complaint or petition requiring testing as provided in this chapter. The peace officer, firefighter, emergency medical personnel or the employing agency, officer, or entity may petition the court for an order authorized under this section. The court shall promptly conduct a hearing upon any such petition. If the court finds that probable cause exists to believe that a possible transfer of blood, saliva, semen, or other bodily fluid took place between the defendant or minor and the peace officer, firefighter, or emergency medical personnel, as specified in this section, the court shall order that the defendant or minor provide two specimens of blood for testing as provided in this chapter. Copies of the test results shall be sent to the defendant or minor, each peace officer, firefighter, and emergency medical personnel named in the petition and his or her employing agency, officer, or entity, and if the defendant or minor is incarcerated or detained, to the officer in charge and the chief medical officer of the facility in which such person is incarcerated or detained.

199.98. Testing

(a) The withdrawal of blood shall be performed in a medically approved manner. Only a physician, registered nurse, licensed vocational nurse, licensed medical technician, or licensed phlebotomist may withdraw blood specimens for the purposes of this chapter.

(b) The court shall order that the blood specimens be transmitted to a licensed medical laboratory and that tests be conducted thereon for medically accepted indications of exposure to or infection by acquired immunity deficiency syndrome (AIDS) virus, AIDS related conditions, and such communicable diseases for which medically approved testing is readily and economically available as determined by the court.

(c) Copies of test results which indicate exposure to or infection by AIDS, AIDS related conditions, or other communicable diseases shall also be transmitted to the State Department of Health Services.

(d) The test results shall be sent to the designated recipients with the following disclaimer: "The tests were conducted in a medically approved manner but tests cannot determine exposure to or infection by AIDS or other communicable diseases with absolute accuracy. Persons receiving this test result should continue to monitor their own health and should consult a physician as appropriate." If the person subject to the test is a minor, copies of the test result shall also be sent to the minor's parents or guardian.

(e) The court shall order all persons, other than the test subject, who receive test results pursuant to Sections 199.96 or 199.97, to maintain the confidentiality of personal identifying data relating to the test results except for disclosure which may be necessary to obtain medical or psychological care or advice.

(f) The specimens and the results of tests ordered pursuant to Sections 199.96 and 199.97 shall not be admissible evidence in any criminal or juvenile proceeding.

(g) Any person performing testing, transmitting test results, or disclosing information pursuant to the provisions of this chapter shall be immune from civil liability for any action undertaken in accordance with the provisions of this chapter.

199.99. Custodial safety

(a) Any medical personnel employed by, under contract to, or receiving payment from the State of California, any agency thereof, or any county, city, or city and county to provide service at any state prison, the Medical Facility, any Youth Authority institution, any county jail, city jail, hospital jail ward, juvenile hall, juvenile detention facility, or any other facility in which adults are held in custody or minors are detained, or any medical personnel employed, under contract, or receiving payment to provide services to persons in custody or detained at any of the foregoing facilities, who receives information as specified herein that an inmate or minor at such a facility has been exposed to or infected by the AIDS virus or has an AIDS related condition or any communicable disease, shall communicate such information to the officer in charge of the facility in which such inmate or minor is in custody or detained.

(b) Information subject to disclosure under subsection (a) shall include the following: any laboratory test which indicates exposure to or infection by the AIDS virus, AIDS-related condition, or other communicable diseases; any statement by the inmate or minor to medical personnel that he or she has AIDS or an AIDS-related condition, has been exposed to the AIDS virus, or has any communicable disease; the results of any medical examination or test which indicates that the inmate or minor has tested positive for

antibodies to the AIDS virus, has been exposed to the AIDS virus, has an AIDS-related condition, or is infected with AIDS or any communicable disease; provided, that information subject to disclosure shall not include information communicated to or obtained by a scientific research study pursuant to prior written approval expressly waiving disclosure under this section by the officer in charge of the facility.

(c) The officer in charge of the facility shall notify all employees, medical personnel, contract personnel, and volunteers providing services at such facility who have or may have direct contact with the inmate or minor in question, or with bodily fluids from such inmate or minor, of the substance of the information received under subsections (a) and (b) so that such persons can take appropriate action to provide for the care of such inmate or minor, the safety of other inmates or minors, and their own safety.

(d) The officer in charge and all persons to whom information is disclosed pursuant to this section shall maintain the confidentiality of personal identifying data regarding such information, except for disclosure authorized hereunder or as may be necessary to obtain medical or psychological care or advice.

(e) Any person who willfully discloses personal identifying data regarding information obtained under this section to any person who is not a peace officer or an employee of a federal, state, or local public health agency, except as authorized hereunder, by court order, with the written consent of the patient or as otherwise authorized by law, is guilty of a misdemeanor.

INSURANCE CODE ARTICLE 6.9. UNDERWRITING OF AIDS RISKS

Section

799. Purposes of article.

799.01. Definitions.

799.02. Authorization to decline coverage; application of section; construction of article.

799.03. Testing for HIV or antibodies to HIV; informed consent; counseling; privacy protection; notification of positive test results.

799.04. Cost of test to be borne by insurer.

799.05. Consideration of marital status or known or suspected homosexuality or bisexuality; prohibited in determining whether to require test.

799.06. Law applicable to underwriting activities; questions about prior testing for HIV antibodies.

799.07. Positive test results; reports to insurance support organizations; nonspecific blood test result code required.

799.08. Limit of benefits.

799.09. Requiring HIV test as condition of coverage; prohibited.

799.10. HIV antibody test results requested by an insurer; negligent and willful disclosures; penalty; damages.

799. Purposes of article

The purposes of this article are to establish standards for the performance by life and disability income insurers of their duty to avoid making or permitting unfair distinctions between individuals of the same class in the underwriting of life or disability income insurance for the risks of acquired immune deficiency syndrome (AIDS) and AIDS-related conditions (ARC); to establish mandatory and uniform minimum standards for assessing AIDS and ARC risks for determining insurability which are deemed to be sufficiently reliable to be used for life and disability income insurance risk classification and underwriting purposes; to require the maintenance of strict confidentiality of personal information obtained through testing; and to require informed consent before any insurer tests for HIV.

799.01. Definitions

As used in this article: (a) "ELISA" test means an enzyme-linked immunosorbent assayserologic test which has been licensed by the federal Food and Drug Administration to detect antibodies to the human immunodeficiency virus.

(b) "Positive ELISA test" means an ELISA test performed in accordance with the manufacturer's specifications which is reactive on an initial testing and on at least one of two additional tests of the same blood specimen.

(c) "Western Blot Assay" means an assay which uses reagents consisting of HIV antigens separated by polyacrylamide-gelelectrophoresis and then transferred to nitro-cellulose paper to detect antibodies to the human immunodeficiency virus.

(d) "Reactive Western Blot Assay" means a Western Blot Assay which is reactive according to the standards of performance and results specified in the manufacturer's federal Food and Drug Administration approved product circular for the Western Blot Assay reagents and laboratory apparatus.

(e) "HIV antibody test" means an ELISA test or a Western Blot Assay, or both.

(f) "Major disability income insurer" means an insurer licensed to transact life insurance or disability insurance in this state or a fraternal benefit society licensed in this state.

(g) "Certificate" means a certificate of group life insurance or group disability income insurance delivered in this state, regardless of the status of the group master policy.

(h) "Policy" means an individual life insurance policy or individual disability income insurance policy delivered in this state or a certificate of life insurance benefits or disability income insurance benefits delivered in this state by a fraternal benefit society.

(i) "Disability income insurance" means insurance against loss of occupational earning capacity arising from injury, sickness, or disablement.

799.02. Authorization to decline coverage; application of section; construction of article

Notwithstanding subdivision (f) of Section 199.21 of the Health and Safety Code or any other provisions of law, a life or disability income insurer may decline a life or disability income insurance application or enrollment request on the basis of a positive ELISA test followed by a reactive Western Blot Assay performed by or at the direction of the insurer on the same specimen of the applicant's blood. This authorization applies only to policies certificates and applications for coverage

(a) that is used delivered or received on or after the effective date of the urgency statute amending this section enacted 1989 portion of the 1989-90 Regular Session and

(b) the issuance or of which is otherwise contingent upon medical review for other diseases or medical conditions to be effective.

This article shall not be construed to prohibit an insurer from declining an application or enrollment request for insurance because the applicant has been diagnosed as having AIDS or ARC by a medical professional.

799.08. Testing for HIV or antibodies to HIV; Informed consent; counseling; privacy protection; notification of positive test results

No insurer shall test for HIV or for the presence of antibodies to HIV for the purpose of determining insurability other than in accordance with the informed consent, counseling, and privacy protection provisions of this article and Article 6.6 (commencing with Section 791). Notwithstanding any other

provision of law, this constitutes the exclusive requirements for counseling, informed consent, and privacy protection for that testing.

(a) An insurer that requests an applicant to take an HIV-related test shall obtain the applicant's written informed consent for the test. Written informed consent shall include a description of the test to be performed, including its purpose, potential uses, and limitations, the meaning of its results, procedures for notifying the applicant of the results, and the right to confidential treatment of the results. Prior to the applicant's execution of the consent, the insurer shall:

(1) Provide the applicant printed material describing HIV, its causes and symptoms, the manner in which it is spread, the test or tests used to detect HIV or the HIV antibody, and what a person can do whose test results are positive or negative.

(2) Provide the applicant a list of counseling resources available, where the applicant can obtain assistance in understanding the meaning of the test and its results. The list may be provided from publicly available information.

(b) The insurer shall notify an applicant of a positive test result by notifying the applicant's designated physician. If the applicant tested has not given written consent authorizing a physician to receive the test results, the applicant shall be urged, at the time the applicant is informed of the positive test results, to contact a private physician, the county department of health, the State Department of Health Services, local medical societies, or alternative test sites for appropriate counseling.

799.04. Cost of test to be borne by Insurer

A life or disability income insurer may not require an applicant to undergo an HIV antibody test unless the cost of the test is borne by the insurer.

799.05 Consideration of marital status or known or suspected homosexuality or bisexuality; prohibited in determining whether to require test

No life or disability income insurer shall consider the marital status or known or suspected homosexuality or bisexuality of an applicant for life insurance or disability income insurance in determining whether to require an HIV antibody test of that applicant.

799.00. Law applicable to underwriting activities; questions about prior testing for HIV antibodies

All underwriting activities undertaken by insurers pursuant to this article shall be subject to all applicable provisions of Article 6.6 (commencing with Section 791). On and after January 1, 1990, no application or enrollment request for life or disability income insurance shall contain a question pertaining to prior testing for HIV antibodies, unless the question is limited in scope to prior testing for the purpose of obtaining insurance.

799.07. Positive test results; reports to insurance support organization; nonspecific blood test result code required

If an applicant has had a positive EISA test result or a reactive Western Blot Assay or both, a life or disability income insurer shall not report a code to an insurance support organization as defined in Section 791.02 or another insurer unless a nonspecific blood test result code is used which does not indicate that the individual was subject to testing related to the human immunodeficiency virus.

799.08 Limit of benefits

No policy or certificate shall limit benefits otherwise payable if loss is caused or contributed to by AIDS or ARC unless the insurer could have declined the application or enrollment request of the insured as provided in Section 799.02.

799.09. Requiring HIV test as condition of coverage; prohibited

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

799.10. HIV antibody test results requested by an insurer; negligent and willfully disclosures; penalty; damages

(a) This section shall apply to the disclosure of the results of HIV antibody tests requested by an insurer pursuant to this article and, notwithstanding the provisions of Section 199.21 of the Health and Safety Code, Section 199.21 of the Health and Safety Code does not apply to the disclosure of the results of HIV antibody tests conducted pursuant to this article.

(b) Any person who negligently discloses results of an HIV antibody test to

any third party, in a manner which identifies or provides identifying characteristics of the person to whom the test results apply, except pursuant to a written authorization, as described in subdivision (g), or except as provided in this article or in Section 1608.1 or 1603.3 of the Health and Safety Code, shall be assessed a civil penalty in an amount not to exceed one thousand dollars (\$1,000) plus court costs, as determined by the court, which penalty and costs shall be paid to the subject of the test.

(c) Any person who willfully discloses the results of an HIV antibody test to any third party, in a manner which identifies or provides identifying characteristics of the person to whom the test results apply, except pursuant to a written authorization, as described in subdivision (g), or except as provided in this article or in Section 1608.1 or 1603.3 of the Health and Safety Code, shall be assessed a civil penalty in an amount not less than one thousand dollars (\$1,000) and not more than five thousand dollars (\$5,000) plus court costs, as determined by the court, which penalty and costs shall be paid to the subject of the test

(d) Any person who willfully or negligently discloses the results of an HIV antibody test to a third party, in a manner which identifies or provides identifying characteristics of the person to whom the test results apply, except pursuant to a written authorization, as described in subdivision (g), or except as provided in this article or in Section 1603.1 or 1603.8 of the Health and Safety Code, which results in economic, bodily, or psychological harm to the subject of the test, is guilty of a misdemeanor punishable by imprisonment in the county jail for a period not to exceed one year, by a fine of not to exceed ten thousand dollars (\$10,000), or by both that fine and imprisonment.

(e) Any person who commits any act described in subdivision (b) or (c) shall be liable to the subject for all actual damages, including damages for economic, bodily, or psychological harm which is a proximate cause of the act

(f) Each disclosure made in violation of this section is a separate and actionable offense.

(g) "Written authorization," as used in this section, applies only to the disclosure of test results by a person responsible for the care and treatment of the person subject to the test. Written authorization is required for each separate disclosure of the test results, and shall include to whom the disclosure would be made.

CHAPTER 2.71. AIDS PREVENTION PROGRAM IN DRUG ABUSE AND PROSTITUTION CASES

Section 1001.10. AIDS education program; condition of probation or participation in drug diversion program; application of section.

1001.11. County health departments; selection of agencies to provide AIDS prevention education; list of selected agencies; services; exemptions.

1001.10. AIDS education program; condition of probation or participation in drug diversion program; application of section

(a) The judge shall require any person described in subdivision (b), as a condition of either placing the person on probation or of permitting the person to participate in a drug diversion program to agree to participate in an AIDS education program. Testing for AIDS antibodies shall be offered but no person described in subdivision (b) shall be required to be tested.

(b) This section shall apply to any person who has either been placed on probation or granted diversion for, any of the following:

(1) A violation of subdivision (a) of Section 11350 of the Health and Safety Code, subdivision (a) of Section 11377 of the Health and Safety Code, Section 11550 of the Health and Safety Code, Section 4143 or 4149 of the Business and Professions Code, or of subdivision (f) of Section 647 if the offense involves intravenous use of a controlled substance.

(2) A violation of subdivision (a) or (b) of Section 647.

1001.11. County health departments; selection of agencies to provide AIDS prevention education; list of selected agencies; services; exemptions

(a) The health department in each county shall select an agency, or agencies, in the county that shall provide AIDS prevention education to those persons sentenced to probation or a drug diversion program in accordance with Section 1001.10. The health department shall endeavor to select an agency, or agencies, that currently provide AIDS prevention education programs to substance abusers or prostitutes. If no agency is currently providing this education, the county agency responsible for substance abuse shall develop an AIDS prevention education program either within the agency or under contract with a community-based, nonprofit organization in the county. The health department shall forward to the courts a list of agencies selected for purposes of referral in accordance with Section 1001.10. Reimbursement for the costs of implementing this section shall be made out of moneys deposited with the county treasurer in accordance with Section 1463.23.

(b) An AIDS prevention education program providing services pursuant to

subdivision (a) shall, at a minimum, include details about the transmission of human immunodeficiency virus (HIV), the etiologic agent for AIDS, symptoms of AIDS or AIDS-related conditions, prevention through avoidance or cleaning of needles, sexual practices which constitute high risk, low risk, and no risk (including abstinence), and resources for assistance if the person decides to take a test for the etiologic agent for AIDS and receives a positive test result. The program shall also include other relevant medical and prevention information as it becomes available.

(c) A person sentenced to a drug diversion program pursuant to Section 1001.10 shall not be required to participate in an AIDS prevention education program, provided that the drug diversion program includes an AIDS prevention education component that meets the requirements of subdivision (b).

ARTICLE 6. CONDUCT, EDUCATION, AND DISCIPLINE

1123. Distribution of AIDS and HIV information to inmates

Subject to the availability of adequate state funding for these purposes, the Director of the Youth Authority shall provide all warris at each penal institution within the jurisdiction of the department, including camps, with information about behavior that places a person at high risk for contracting the human immunodeficiency virus (HIV), and about the prevention of transmission of acquired immune deficiency syndrome (AIDS). The director shall provide all wards, who are within one month of release or being placed on parole, with information about agencies and facilities that provide testing, counseling, medical, and support services for AIDS victims. Information about AIDS prevention shall be solicited by the director from the State Department of Health Services, the county health officer, or local agencies providing services to persons with AIDS. The Director of Health Services, or his or her designee, shall approve protocols pertaining to the information to be disseminated, and the training to be provided, under this section.

1202.1. Conviction for sex offense; AIDS testing

(a) Notwithstanding Sections 199.20 and 199.22 of the Health and Safety Code, the court shall order every person convicted of a violation of a sexual offense listed in subdivision (d), whether or not a sentence or fine is imposed or probation is granted, to submit to a blood test for evidence of antibodies to the probable causative agent of acquired immune deficiency syndrome (AIDS). Each person tested under this section shall be informed of the results of the blood test.

(b) Notwithstanding Section 199.21 of the Health and Safety Code, the results of the blood test to detect antibodies to the probable causative agent of AIDS shall be transmitted by the clerk of the court to the Department of Justice.

(c) Notwithstanding Section 199.21 of the Health and Safety Code, the Department of Justice shall provide the results of a test or tests as to persons under investigation or being prosecuted under Section 647f or 12022.85, if the results are on file with the department, to the defense attorney upon request; and the results also shall be available to the prosecuting attorney upon request for the sole purpose of preparing counts for a subsequent offense under Section 647f or sentence enhancement under Section 12022.85.

(d) For purposes of this section, sexual offenses include any of the following:

(1) Rape in violation of Section 261.

(2) Unlawful intercourse with a female under age 18 in violation of Section 261.5.

(3) Rape of a spouse in violation of Section 262.

(4) Sodomy in violation of Section 286.

(5) Oral copulation in violation of Section 288a. 1202.5. Additional fine for robbery, burglary, grand theft, or petty theft; determination of defendant's ability to pay; use of money. for local crime prevention programs

(a) In any case in which a defendant is convicted of any of the offenses enumerated in Section 211, 459, 487, or 488, the court may order the defendant to pay a fine of ten dollars (\$10) in addition to any other penalty or fine imposed. If the court determines that the defendant has the ability to pay all or part of the fine, the court may set the amount to be reimbursed and order the defendant to pay that sum to the county in the manner in which the court believes reasonable and compatible with the defendant's financial ability. In making a determination of whether a defendant has the ability to pay, the court shall take into account the amount of any other fine imposed upon the defendant and any amount the defendant has been ordered to pay in restitution.

(b) All fines collected pursuant to this section shall be transferred to the local law enforcement agency in the jurisdiction where the offense took place. All moneys collected shall be used exclusively to implement, support, and continue local crime prevention programs.

(c) As used in this section, "law enforcement agency" includes, but is not limited to, police departments, sheriffs departments, and probation departments.

1202.6. Prostitution; conviction; instruction in causes and consequences of AIDS; AIDS testing; report of test results; selection of program; testing procedure; confidential.

(a) Notwithstanding Sections 199.20, 199.21, and 199.22 of the Health and Safety Code, upon the first conviction of any person for a violation of subdivision (b) of Section 647, the court shall, before sentencing or as a condition of probation, order the defendant to complete instruction in the causes and consequences of acquired immune deficiency syndrome (AIDS) pursuant to subdivision (d) and shall order the defendant to submit to testing for AIDS in accordance with subdivision (e). In addition, the court shall refer a defendant, where appropriate, to a program under Article 3.2 (commencing with Section 11320) of Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions Code or to any drug diversion program, or both.

(b) Upon a second or subsequent conviction of a violation of subdivision (b) of Section 647, the court shall, before sentencing, order the defendant to submit to testing for AIDS in accordance with subdivision (e).

(c) At the sentencing hearing of a defendant ordered to submit to testing for AIDS pursuant to subdivision (a) or (b), the court shall furnish the defendant with a copy of the report submitted pursuant to subdivision (e) and shall direct the clerk to note the receipt of the report by the defendant in the records of the case. If the results of the test described in the report are positive, the court shall make certain that the defendant understands the nature and meaning of the contents of the report and shall further advise the defendant of the penalty established in Section 647 for a subsequent violation of subdivision (b) of Section 647.

(d) The county health officer in each county shall select an agency, or agencies, in the county that shall provide AIDS prevention education. The county health officer shall endeavor to select an agency, or agencies, that currently provide AIDS prevention education programs to substance abusers or prostitutes. If no agency is currently providing this education, the county agency responsible for substance abuse shall develop an AIDS prevention education program either within the agency or under contract with a community-based, nonprofit organization in the county. The county health officer shall forward to the courts a list of agencies selected for purposes of referral.

An AIDS prevention education program providing services, at a minimum, shall include details about the transmission of human immunodeficiency virus (HIV), the etiologic agent for AIDS, symptoms of AIDS or AIDS-related conditions, prevention through avoidance or cleaning of needles, sexual practices which constitute high risk, low risk, and no risk (including abstinence), and resources for assistance if the person decides to take a test

for the etiologic agent for AIDS and receives a positive test result The program also shall include other relevant medical and prevention information as it becomes available.

(e) The court shall order testing of every defendant as ordered pursuant to subdivision (a) or (b) for evidence of antibodies to the probable causative agent of acquired immune deficiency syndrome. Notwithstanding Section 199.21 of the Health and Safety Code, written copies of the report on the test shall be furnished to both of the following: (1) The court in which the defendant is to be sentenced. (2) The State Department of Health Services.

(f) Except as provided in subdivisions (c) and (g), the reports required by subdivision (e) shall be confidential (g) The State Department of Health Services shall maintain the confidentiality of the reports received pursuant to subdivision (e), except that the department shall furnish copies of any such report to a district attorney upon request.

1337.1 Adoption; contents

A skilled nursing or intermediate care facility shall adopt an approved-training program that meets standards established by the state department, The approved training program shall consist of at least the following:

(d) Each facility shall consider including training regarding the characteristics and method of assessment and treatment of acquired immune deficiency syndrome (AIDS).

1463.23. Fines; AIDS education program

Notwithstanding Section 1463, out of the moneys deposited with the county treasurer pursuant to Section 1463, fifty dollars (\$50) of each fine imposed pursuant to Section 4883 of the Business and Professions Code, subdivision (c) of Section 11350, subdivision (c) of Section 11377, or subdivision (b) of Section 11550 of the Health and Safety Code or subdivision (b) of Section 264, subdivision (m) of Section 286, subdivision (m) of Section 288a or Section 647.1, shall be deposited in a special account in the county treasury which shall be used exclusively to pay for the reasonable costs of establishing and providing for the county, or any city within the county, an AIDS (acquired immune deficiency syndrome) education program under the direction of the county health department, in accordance with Chapter 2.71 (commencing with Section 1001.10) of Title 6, and for the costs of collecting and administering funds received for purposes of this section.

1524.1. Issuance; HIV testing of accused's blood; hearing; notice to victim; request of victim; disclosure of test results and information; inadmissibility of test results and information in criminal proceeding

(a) The primary purpose of the testing and disclosure provided in this section is to benefit the victim of a crime by informing the victim whether the defendant is infected with the AIDS virus. It is also the intent of the Legislature in enacting this section to protect the health of both victims of crime and those accused of committing a crime. Nothing in this section shall be construed to authorize mandatory testing or disclosure of test results for the purpose of a charging decision by a prosecutor, nor, except as specified in subdivisions (g) and (i), shall this section be construed to authorize breach of the confidentiality provisions contained in Chapter 1.11 (commencing with Section 199.20) of Part 1 of Division 1 of the Health and Safety Code.

(b) (1) Notwithstanding the provisions of Chapter 1.11 (commencing with Section 199.20) of Part 1 of Division 1 of the Health and Safety Code, when a defendant has been charged by complaint, information, or indictment with a crime, or a minor is the subject of a petition filed in juvenile court alleging commission of a crime, the court, at the request of the victim, may issue a search warrant for the purpose of testing the accused's blood with any HIV test, as defined in Section 26 of the Health and Safety Code only under the following circumstances: When the court finds, upon the conclusion of the hearing described in paragraph (2), or in those cases in which a preliminary hearing is not required to be held, the court also finds that there is probable cause to believe that the accused committed the offense, and that there is probable cause to believe that blood, semen, or any other body fluid identified by the State Department of Health Services in appropriate regulations as capable of transmitting the human immunodeficiency virus has been transferred from the accused to the victim.

(2) Prior to the issuance of a search warrant pursuant to paragraph (1), the court, where applicable and at the conclusion of the preliminary examination if the defendant is ordered to answer pursuant to Section 872, shall conduct a hearing at which both the victim and the defendant have the right to be present. During the hearing only affidavits, counter affidavits, and medical reports regarding the facts which support or rebut the issuance of a search warrant under paragraph (1) shall be admissible.

(c) (1) In all cases in which the person has been charged by complaint, information, or indictment with a crime, or is the subject of a petition filed in a juvenile court alleging the commission of a crime, the prosecutor shall advise the victim of his or her right to make this request. To assist the victim of the crime to determine whether he or she should make this request, the prosecutor shall refer the victim to the local health officer for prerequisite

counseling to help that person understand the extent to which the particular circumstances of the crime may or may not have put the victim at risk of transmission of HIV from the accused, to ensure that the victim understands both the benefits and limitations of the current tests for HIV, to help the victim decide whether he or she wants to request that the accused be tested, and to help the victim decide whether he or she wants to be tested.

(2) The Department of Justice, in cooperation with the California District Attorneys Association, shall prepare a form to be used in providing victims with the notice required by paragraph (1).

(d) If the victim decides to request HIV testing of the accused, the victim shall request the issuance of a search warrant, as described in subdivision (b). Neither the failure of a prosecutor to refer or advise the victim as provided in this subdivision, nor the failure or refusal by the victim to seek or obtain counseling, shall be considered by the court in ruling on the victim's request

(e) The local health officer shall make provision for administering all HIV tests ordered pursuant to subdivision (b).

(f) Any blood tested pursuant to subdivision (b) shall be subjected to appropriate confirmatory tests to ensure accuracy of the first test results, and under no circumstances shall test results be transmitted to the victim or the accused unless any initially reactive test result has been confirmed by appropriate confirmatory tests for positive reactors.

(g) The local health officer shall have the responsibility for disclosing test results to the victim who requested the test and to the accused who was tested . However no positive test results shall be disclosed to the victim or to the accused without also providing or offering professional counseling appropriate to the circumstances.

(h) The local health officer and victim shall comply with all laws and policies relating to medical confidentiality subject to the disclosure authorized by subdivisions (g) and (i).

(i) Any victim who receives information from the health officer pursuant to subdivision (g) may disclose the test results as the victim deems necessary to protect his or her health and safety or the health and safety of his or her family or sexual partner.

(j) Any person transmitting test results or disclosing information pursuant to this section shall be immune from civil liability for any actions taken in compliance with this section.

(k) The results of any blood tested pursuant to subdivision (b) shall not be used in any criminal proceeding as evidence of either guilt or innocence.

CHAPTER 3.35. RESIDENTIAL CARE FOR MINORS AND FAMILIES WITH HIV DISEASE

Section

1596.60. Pilot project; selection of facilities; participation requirements for facilities selected.

1596.61. Recommendations by State Department of Social Services; collection and analysis of information; contracts with consultants.

1596.62. Pilot project implementation guidelines; exemption from Administrative Procedure Act

1596.63. Duration of chapter.

1596.64. Implementation of chapter; funding.

1596.60. Pilot project; selection of facilities; participation requirements for facilities selected

(a) The State Department of Social Services shall select and monitor no less than six and no more than 20 facilities that apply to participate in a pilot project to develop efficient, cost effective, and humane residential care for minors with human immunodeficiency virus (HIV) disease, and families in which one or more members have HIV disease.

(b) In selecting the pilot project facilities, the department shall consider geographic and demographic factors related to the HIV epidemic. The department shall also consider each pilot project applicant's residential care experience, financial integrity, ability to serve the target population, and ability to provide the pilot project services. The department shall select at least one of each of the following:

(1) A group home that provides long-term care for minors with HIV disease. For purposes of this section, long-term care shall include care until the time of death.

(2) A group home that provides transitional care for minors with HIV disease. For purposes of this section, "transitional care means care for six months to one year where the goal for the minor is reunification with the family, adoption, or placement in a foster care program.

(3) A residential care facility for persons with chronic, life-threatening illness that provides residential care to families in which one or more members have HIV disease. A residential care facility for persons with chronic, life-

threatening illness selected as a pilot project shall be exempt from the age limitation in subdivision (i) of Section 1568.01.

(4) A facility that is not licensed by the department and provides residential care to minors with HIV disease or to families in which one or more members have HIV disease. The Director of Social Services may select these facilities from those facilities that are currently pilot projects in the residential AIDS shelter program as described in Section 199.715. A residential AIDS shelter selected for this pilot project shall cease being a residential AIDS shelter. The director shall exempt from licensing any facility selected for this pilot project that is not licensed by the department

(c) Any group home selected for this pilot project shall continue to meet the licensing requirements of Chapter 3 (commencing with Section 1500). Any residential care facility for persons with chronic, life-threatening illness selected for this pilot project shall continue to meet the licensing requirements pursuant to Chapter 3.01 (commencing with Section 1568.01).

(d) Any facility that is not licensed by the department and is selected for this pilot project shall be required to enter into a contract with the department that defines the conditions for participation and includes any other criteria the department determines are necessary to assure the health, safety, and welfare of the residents. The contract shall require that a plan of operation be submitted to the department prior to the commencement of the pilot project. The contract shall require the facility to comply with any data collection that the department determines is necessary.

(e) Each facility selected for the pilot project shall ensure that each resident with HIV disease has access to home health care services provided by a licensed home health agency. The facility shall have a written agreement with one or more licensed home health agencies. Notwithstanding any other provisions of law, where the resident with HIV disease or his or her parent, guardian, or conservator, if one exists, is unable to arrange for home health care services, the facility shall assume that responsibility.

(f) Each facility selected for the pilot project shall establish and coordinate an interdisciplinary team for each resident of the facility. The team shall include, but not be limited to, the resident's physician or his or her designee, a registered nurse, if one is involved in delivering the resident's health care, a representative from the facility, the resident's placement worker, if one exists, and the resident's parent or guardian if the resident is a minor and the parent or guardian is involved in decisions regarding the minor's life. The team shall develop and monitor an individual services plan for each resident. The plan shall include a health care services component developed by the resident's physician or his or her designee, or a registered nurse.

(g) Any facility that is not licensed by the department and is selected for the pilot project shall secure criminal records clearances pursuant to Section

11105.3 of the Penal Code. The facility shall not employ any person convicted of violations of Sections 187, 220, 243.4, 264.1, paragraph (1) of Section 273a, Section 273d, Section 288, or Section 289 of the Penal Code.

(h) Nothing in this section shall be used to deny funds for which a resident in a pilot project facility or a facility selected as a pilot project would otherwise have been eligible.

(i) In administering the pilot project, the department shall not evaluate or have any responsibility for the evaluation of the in-home health care provided in pilot project facilities.

(j) It is the intent of the Legislature that this pilot program endeavor to prevent separation of a resident with HIV disease from his or her parents, siblings, or children. To achieve that objective, persons without HIV disease may reside in the facility if the only alternative is to separate families or siblings.

(k) For purposes of this chapter, "family" means at least one minor and one parent or legal guardian of the minor.