

/\* California, part 3 of 3. \*/

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

(a) The State Department of Social Services shall examine and make recommendations on the following issues:

(1) The ability and appropriateness of facilities licensed as group homes providing long-term residential care for minors with human immunodeficiency virus (HIV) disease, up to and including the time of death.

(2) The ability and appropriateness of facilities licensed as residential care facilities for persons with chronic, life-threatening illness providing residential care for families in which at least one member has HIV disease, up to and including the time of death.

(3) The most effective method or methods for providing residential care to families in which at least one member has HIV disease.

(4) The threshold at which the complexity and cumulation of services provided by the facility for the residents with HIV disease makes community care licensing a necessity for the health, safety, and welfare of the residents.

(5) Impediments that prevent or delay a minor resident's transition from the group home to the family, adoption, or placement in a foster care program. The department shall collect and analyze data on the length of time minor residents remain in group homes.

(6) The most appropriate fire clearance category in which the safety of residents is maintained, but the cost of meeting fire protection standards does not impose an undue financial burden on the facility either in startup or ongoing operations.

(7) The most appropriate agency to regulate the facilities that may be licensed as a result of this pilot project and any specific qualifications desired for the agency personnel responsible for the regulation.

(b) The department shall collect and analyze the following

information:

(1) The cost of providing care in each model facility selected for the pilot project Costs shall include, but not be limited to, room and board provided by the facility.

(2) The residential situation from which each resident enters the pilot project and to which each resident who leaves the body is discharged.

(3) The residential care needs for the area and population served by each pilot project facility.

(4) The satisfaction of residents served by each pilot project facility.

(c) The department may contract with an outside consultant to comply with subdivisions (a) and (b).

(d) The department shall make recommendations required by subdivision (a) to the legislature and the Governor on or before January 1, 1996. In order to ensure continuity in care for pilot project residents, the director shall continue the pilot project contracts until July 1, 1997, unless a facility is otherwise licensed to continue providing residential care to its pilot project population.

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

Guidelines developed by the State Department of Social Services to implement this pilot project shall be exempt from the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Division 3 of Title 2 of the Government Code).

1596.63. Duration of chapter

This chapter shall become inoperative on July 1, 1997, and as of January 1, 1998, is repealed, unless a later enacted statute which becomes effective on or before January 1, 1998, deletes or extends the date on which it becomes inoperative and is repealed.

1596.64. Implementation of chapter; funding

The department shall implement this chapter only if it determines that funds are available to cover all costs resulting from its implementation within the annual Budget Act, either from appropriations to the department, or indirectly through transfers from other departments specified in the Budget Act, or as otherwise provided.

1603.1. HIV; prohibition against use of untested blood or blood components; exceptions; tests to detect viral hepatitis and HIV; reports; investigations; Donor Referral Register; contacting of carrier donors; regulations; disclosures to blood banks by department or county health officers; use of information

(a) Except as provided in this subdivision. no blood or blood components shall be used in vivo for humans in this state, unless the blood or blood components have been tested and found nonreactive for HIV or the blood or blood components are used for research or vaccination programs pursuant to an informed consent. Additional exceptions to the requirement of this subdivision are as follows:

(1) Frozen red blood cells of a rare type, as determined by the blood bank or plasma center, collected prior to the effective date of this paragraph. for which no specimen is available.

(2) Inventories of blood and blood components collected prior to 60 days after the effective date of this paragraph or the date of licensing of a test by the Federal Drug Administration to determine exposure to the antibodies to the probable causative agent of AIDS, whichever is later.

(3) Blood or blood products released for transfusion in emergency circumstances, as determined by the state- department.

(4) Blood used for autologous purposes

(b) Blood banks and plasma centers shall make laboratory tests of all human whole blood and plasma received to detect the presence of viral hepatitis and HIV in the manner specified in Section 1603.3. If the blood bank or plasma center finds the presence of viral hepatitis. or an antigen thereof, in the blood tested. it shall report that finding. the date of the human whole blood donation. the name, address. and social security number of the person who donated the blood, and the name and address of the blood bank which received the human whole blood from the person and any additional information required by the department. to the

department and the county health officer within 72 hours of the confirmation of the presence of viral hepatitis. or an antigen thereof. in the blood tested.

(c) As soon as practicable following diagnosis. a physician shall report to the department and the county health officer the name. date of birth, address. and social security number of all carriers of viral hepatitis under his or her treatment. the type of viral hepatitis contracted if known. and any additional information required by the department and shall report immediately all transfusion-associated hepatitis and transfusion associated AIDS cases to the county health officer for investigation.

(d) As soon as practicable following hospitalization. a hospital shall report to the department and to the county health officer the name, date of birth, address. and social security number of all confirmed cases of AIDS carriers. as determined by a person responsible for the care and treatment of a person with AIDS, and all carriers of viral hepatitis hospitalized for treatment of viral hepatitis or AIDS, the name of the hospital. the date of hospitalization. the type of viral hepatitis contracted if known. and any additional information required by the department and shall report immediately all transfusion-associated hepatitis and all confirmed transfusion-associated AIDS cases, as determined by a person responsible for the care and treatment of a person with AIDS, to the county health officer for investigation.

(e) The county health officer shall investigate all transfusion-associated hepatitis cases and transfusion-associated AIDS cases and shall. if possible. trace the sources of human whole blood which was transfused. The county health officer shall report to the department within 72 hours following an investigation the name. date of birth. address. and social security number of carrier donors. possible carrier donors and carriers of viral hepatitis and any additional information required by the department.

(f) The department shall compile two times each month a list of carrier donors. possible carrier donors. and carriers of viral hepatitis and persons who test reactive for HIV and shall distribute the list to blood banks and plasma centers two times each month. The list shall include the name, date of birth, address. and social security number of people who are carrier donors, possible carrier donors and carriers of viral hepatitis and persons who test reactive for HIV. and confirmed cases of AIDS. as determined by a person responsible for the care and treatment of a person with AIDS, the date of the human whole

blood donation if applicable, the name and address of the blood bank who received the human whole blood donation if applicable, and any other information which the department deems necessary to protect the public health and safety. This list shall be known as the Donor Deferral Register and shall include names of individuals who are indefinitely deferred from blood donations without identifying the reasons for the deferral. The state department may develop guidelines governing the instances when a person is to be removed from the register. These guidelines may include, but shall not be limited to nor be required to include, death of an identified donor or the licensure by the Federal Food and Drug Administration of a new, confirmatory test for AIDS which would allow the state department to more accurately determine if a person should be kept on the registry due to any threat to the state's blood supply that the prospective donor may represent.

(g) The department shall, if possible, contact carrier donors to inform them that they may be carriers of viral hepatitis and should not make blood donations, and shall suggest appropriate treatment alternatives. County health or state department officials shall contact all persons who have confirmed cases of AIDS, as determined by a person responsible for the care and treatment of the person with AIDS, to suggest appropriate treatment alternatives and for the purposes of epidemiological studies and follow up.

(h) The department may adopt regulations governing the procedures in this section as it deems necessary to protect the public health and safety.

(i) "Plasma center," as used in this chapter, means any place where the process of plasmapheresis is conducted, as defined in Section 1025 of Title 17 of the California Code of Regulations' and includes a place where leukapheresis or platelet pheresis, or both, is conducted.

(j) "AIDS," as used in this chapter, means acquired immune deficiency syndrome.

(k) "Blood components," as used in this chapter, means preparations separated from single units of whole blood or prepared for hemapheresis and intended for use as final products for transfusions.

(l) The department or a county health officer may disclose to a blood bank, on a confidential basis, any information reported pursuant to subdivision (b), (c), or (d). This information shall

be used by the blood bank solely to determine whether blood previously transfused may have been donated by a person infected with HIV, in order to implement the blood bank's program to notify a recipient of blood which might have transmitted HIV and which was donated prior to implementation of testing procedures for the presence of antibodies to the probable causative agent of HIV. The blood bank shall not disclose information which would identify a donor to which this subdivision applies and shall destroy information communicated to it as authorized by this subdivision immediately after reviewing its records as necessary to implement this program.

1603.3. Notice to blood donors prior to donation; contents of notice; voluntary self-deferral program; notification of donor of test results; conditions and guidelines for notification; inclusion of information in Donor Deferral Register; notice of test site locations

(a) Prior to a donation of blood or blood components each donor shall be notified in writing of, and shall have signed a written statement confirming the notification of, all of the following:

(1) That the blood or blood components shall be tested for evidence of antibodies to the probable causative agent of acquired immune deficiency syndrome.

(2) That donors found to have serologic evidence of the antibodies shall be placed on a confidential statewide Blood Donor Deferral Register without a listing of the reason for being included on the register.

(3) That the donor shall be notified of the test results in accordance with the requirements described in subdivision (c).

(4) That the donor blood or blood component which is found to have the antibodies shall not be used for transfusion.

(5) That blood or blood components shall not be donated for transfusion purposes by a person if the person has reason to believe that he or she has been exposed to acquired immune deficiency syndrome.

(6) That the donor is required to complete a health screening questionnaire to assist in the determination as to whether he or she has been exposed to acquired immune deficiency syndrome.

(b) A blood bank or plasma center shall incorporate voluntary means of self-deferral for donors. The means of self-referral may include, but are not limited to, a form with checkoff boxes specifying that the blood donated is for research or test purposes only and a telephone callback system for donors to use in order to inform the blood bank that blood donated should not be used for transfusion. The blood bank or plasma center shall inform the donor, in a manner that is understandable to the donor, that the self-deferral process is available and should be used if the donor has reason to believe that he or she is infected with the human immunodeficiency virus. The blood bank or plasma center shall also inform the donor that it is a felony pursuant to Section 1621.5 to donate blood if the donor knows that he or she has a diagnosis of AIDS or knows that he or she has tested reactive to the etiologic agent of AIDS or to antibodies to that agent.

(c) Blood or blood products from any donor initially found to have serologic evidence of antibodies to the probable causative agent of AIDS shall be retested for confirmation. Only if a further test confirms the conclusion of the earlier test shall the donor be notified of a reactive result by the blood bank or plasma center. The state department shall develop permissive guidelines for blood banks and plasma centers on the method or methods to be used to notify a donor of a test result. Each blood bank or plasma center shall, upon positive confirmation using the best available and reasonable techniques, provide the information to the state department for inclusion in the Donor Deferral Register. Blood banks and plasma centers shall provide the information on donations testing reactive for the antibodies to the probable causative agent of AIDS and carrier donors of viral hepatitis to the department on a single list in the same manner without specification of the reason the donor appears on the list.

(d) The Blood Donor Deferral Register, as described in subdivision (e) of Section 1603.1, shall include names of individuals who are deferred from blood donations without identifying the reasons for deferral.

(e) Each blood bank or plasma center operating in California shall prominently display at each of its collection sites a notice which provides the addresses and phone numbers of sites, within the proximate area of the blood bank or plasma center, where tests provided pursuant to Article 8 (commencing with Section 1630) may be administered without charge.

(f) The state department may promulgate any additional

regulations it deems necessary to enhance the safety of donated blood and plasma. The state department may also promulgate regulations it deems necessary to safeguard the consistency and accuracy of HIV test results by requiring any confirmatory testing the state department deems appropriate for the particular types of HIV tests that have yielded "reactive," "positive," "indeterminate," or other similarly labeled results.

(g) Notwithstanding any other provision of law, no civil liability or criminal sanction shall be imposed for disclosure of test results to a public health officer when the disclosure is necessary to locate and notify a blood donor of a reactive result if reasonable efforts by the blood bank or plasma center to locate the donor have failed. Upon completion of the public health officer's efforts to locate and notify a blood donor of a reactive result, all records obtained from the blood bank pursuant to this subdivision, or maintained pursuant to this subdivision, including, but not limited to, any individual identifying information or test results, shall be expunged by the public health officer.

1603.4. Unintentional disclosure of acquired immunity deficiency syndrome test results or information in donor referral register; liability

(a) Notwithstanding Chapter 1.11 (commencing with Section 199.20) of Part 1 of Division 1, as added by Assembly Bill 403 of the 198586 Regular Session, or any other provision of law, no public entity or any private blood bank or plasma center shall be liable for an inadvertent, accidental, or otherwise unintentional disclosure of the results of an HIV test or information in the Donor Referral Register.

As used in this section, "public entity" includes, but is not limited to, any publicly owned or operated blood bank or plasma center and the state department.

(b) Neither the state department nor any blood bank or plasma center, including a blood bank or plasma center owned or operated by a public entity, shall be held liable for any damage resulting from the notification of test results, as set forth in paragraph (3) of subdivision (a) of, or in subdivision (c) of, Section 1603.3.



1603.5. Blood container labels; no implied warranty from label

(a) Notwithstanding any other provision of law, every person engaged in the production of blood shall, if the product is intended for transfusion, label each container of blood which the person produces with a label, upon which the following designations shall be printed in letters the size of which shall be no less prominent than the proper name of the product.

(1) If the person giving the blood received no payment for the blood, the designation shall be "volunteer donor."

(2) If the person giving the blood received payment for the blood, the designation shall be "paid donor."

(b) As used in this section:

(1) "Blood" means human whole blood or components of human blood, including plasma, which are prepared from human whole blood by physical, rather than chemical processes, but does not include blood derivatives manufactured or processed by industrial use.

(2) "Industrial use" means a use of blood in which the blood is modified by physical or chemical means to produce derivatives for therapeutic or pharmaceuticals biologics, laboratory reagents, or in vitro diagnostics.

(3) "Payment" means the transfer by a blood bank, or any other party, to any person of money or any other valuable consideration which can be converted to money by the recipient, except that "payment" shall not include any of the following:

(i) Cancellation or refund of the nonreplacement fees or related blood transfusion charges.

(ii) Blood assurance benefits to a person as a result of a blood donation to a donor club or blood assurance program.

(iii) Time away from employment granted by an employer to an employee in order to donate blood.

(c) Any blood bank receiving blood from a blood bank outside of California shall comply with the labeling requirements of this chapter. Any blood bank receiving this blood may label the blood as "volunteer donor" blood only if the blood bank receives with the blood a certificate from the out-of-state blood bank which states either that the particular shipment of blood was acquired from volunteer donors not receiving payment or that all blood

processed by the out-of-state blood bank is acquired from volunteer donors not receiving payment. If the blood bank receiving such blood receives no 18 such certificate with the blood, the blood shall be labeled as "paid donor" blood.

(d) No warranty shall be implied from the fact that any blood is labeled in accordance with the requirements of this section.

1604. Distribution by blood banks The distribution or release for distribution by blood banks of human whole blood, or those human whole blood derivatives specified by regulation, shall be made only to blood bank depositories or to other licensed blood banks

1605. Blood bank depositories; nature; responsibility for tests

Establishments which receive human whole blood and human whole blood derivatives specified by regulation and are not subject to license in accordance with this chapter shall be considered as blood bank depositories laboratory tests and other procedures with respect to the preparation of blood for transfusion shall be the sole responsibility of the blood bank depository.

1606. Blood, etc.; processing, distribution; service, not sale

The procurement, processing, distribution, or use of whole blood, plasma, blood products, and blood derivatives for the purpose of injecting or transfusing the same, or any of them, into the human body shall be construed to be, and is declared to be, for all purposes whatsoever, the rendition of a service by each and every person, firm, or corporation participating therein, and shall not be construed to be, and is declared not to be, a sale of such whole blood, plasma, blood products, or blood derivatives, for any purpose or purposes whatsoever.

## Article 8 ANTIBODY TESTING

Section 1630. Legislative findings and declarations.

1631. Designation of counties for alternative testing sites for acquired immune deficiency syndrome; supervision of sites.

1632. County to make test available; identity of individual taking test; referral list; informing individuals taking test; plan; reimbursement of counties; replacement tests; waivers;

contributions.

1630. Legislative findings and declarations

The Legislature finds and declares it is of great benefit to the public health and essential to the protection of safe blood and blood components available for transfusion to provide testing for the presence of antibodies to the probable causative agent of acquired immune deficiency syndrome (AIDS) as a function separate from the donation of blood or blood components.

1631. Designation of counties for alternative testing sites for acquired immune deficiency syndrome; supervision of sites

The director shall, in order to protect the public health and in order to make blood and blood components safe for transfusion, designate counties which shall establish alternative testing sites, within the funds available, pursuant to this article. When designating a county pursuant to this section, the director may consider whether the county contains a permanent operational blood bank. All alternative test sites, established pursuant to this article, shall be under the supervision of a physician and surgeon or be a clinic or health facility licensed by the state department.

1632. County to make test available; identity of individual taking test; referral list; informing individuals taking test; plan; reimbursement of counties; replacement tests; waivers; contributions

(a) Each county, designated by the director, shall make the test available within its jurisdiction without charge, in an accessible manner and the tests shall be made available by the county on a confidential basis through use of a coded system with no linking of individual identity with the test request or results. The number and location of sites in each county designated by the director shall be approved by the director. The test shall be made available by the county either directly or by contract with a physician and surgeon or with any clinic or health facility licensed by the state department. Neither the county nor anyone else administering the test described in this article, shall ask for the name, social security number, or any

other information which could reveal the identity of the individual who takes the test. Each alternative test site shall make available confidential information and referral services, within the funds available, to individuals who seek testing. A county may subcontract with individuals or entities to provide information and referral services. All alternative test sites shall provide a referral list of physicians and surgeons or clinics knowledgeable about AIDS, to all persons who have any known risk factor for AIDS, especially those who have a reactive antibody test, for further information and explanation of the test results and for medical evaluation. At a minimum, individuals seeking testing shall be informed about the validity and accuracy of the antibody test before the test is performed. All testing site personnel shall be required to attest to having provided the above information. Furthermore, all individuals who are tested at the sites established by this article shall be given the results of this test in person. All sites providing antibody testing pursuant to this article shall have a protocol for referral for 2-hour inpatient and mental health services. All individuals awaiting test results and all persons to whom results are reported shall be informed of available crisis services and shall be directly referred, if necessary. Each county, designated by the director, shall be required to submit a plan to the state department within 45 days after the effective date of this section which details where testing and pretest and post test information and referral will be provided and the qualifications of the staff who will be performing the services required by this article. The state department shall make training available, especially to smaller counties.

(b) The state department shall establish a reimbursement process for counties within 30 days after the effective date of this section for the following services:

(1) Informing test applicants on the test's reliability and validity.

(2) Administration of tests, analysis of test samples, and costs associated with the laboratory work required by this antibody test.

(3) Short-term information and referral sessions, of no more than one visit per person tested for the purpose of transmitting the person's test results and, as requested, for referral to available follow up services. The state department shall establish the amounts to be reimbursed for each of these services, but the amounts shall be established at a level to ensure that the purposes of this article are carried out.

Reimbursements shall be made for each service provided.

(c) The state department may replace the test for the antibody to the probable causative agent for AIDS with another type of HIV test, as the state department deems appropriate.

(d) The director may grant a waiver to a county from the requirements of this article if the county petitions the director for the waiver and the director determines that the waiver is consistent with the purposes of this article.

(e) A participating county or the state department may accept grants, donations, and in-kind services for purposes of carrying out this article.

#### Chapter 4.1 DONATIONS OF ORGANS, TISSUES, OR BODY FLUIDS

##### Section

1640. Screening for infectious diseases; adoption of regulations.

(a) The State Department of Health Services shall adopt regulations requiring the screening for infectious diseases of all donors of organs, tissues, or body fluids intended for introduction into the body of another person by means of transplantation, therapeutic insemination, ingestion, or other means or procedure. This screening shall include, but not be limited to, testing for the presence of HIV.

(b) Notwithstanding subdivision (a), infectious disease screening of blood and blood products shall be carried out solely in accordance with Article 2 (commencing with Section 1601) of Chapter 4.

#### Chapter 4.5 THE PAUL GANN BLOOD SAFETY ACT

Section 1645. Blood transfusions in surgical procedures; information to be given to patient; predonation; standardized written summary regarding autologous blood and directed and nondirected homologous blood.

1645. Blood transfusions in surgical procedures; information to be given to patient; predonation; standardized written summary regarding autologous blood and directed and nondirected homologous blood

(a) Whenever there is a possibility that a blood transfusion may be necessary as a result of a surgical procedure, a physician and surgeon, by means of a standardized written summary as most recently developed or revised by the State Department of Health Services pursuant to subdivision (e), shall inform the surgery patient of the positive and negative aspects of receiving autologous blood and directed and nondirected homologous blood from volunteers. For purposes of this section, the term "autologous blood" includes, but is not limited to, predonation, intraoperative autologous transfusion, plasmapheresis, and hemodilution.

(b) The physician and surgeon shall note on the patient's medical record that the standardized written summary described in subdivision (e) was given to the patient.

(c) Subdivisions (a) and (b) shall not apply when medical contraindications or a life-threatening emergency exists.

(d) When there is no life-threatening emergency and there are no medical contraindications, the physician and surgeon shall allow adequate time prior to surgery for predonation to occur. Notwithstanding this chapter, if a patient waives allowing adequate time prior to surgery for predonation to occur, a physician and surgeon shall not incur any liability for his or her failure to allow adequate time prior to surgery for predonation to occur.

(e) The State Department of Health Services shall develop and annually review, and if necessary revise, a standardized written summary which explains the advantages, disadvantages, risks, and descriptions of autologous blood, and directed and nondirected homologous blood from volunteer donors. These blood options shall include, but not be limited to, the blood options described in subdivision (a). The summary shall be written so as to be easily understood by a layperson.

(f) The Board of Medical Quality Assurance shall publish the standardized written summary prepared pursuant to subdivision (e) by the State Department of Health Services and shall distribute copies thereof, upon request, to physicians and surgeons. The Board of Medical Quality Assurance shall make the summary available for a fee not exceeding in the aggregate the actual costs to the State Department of Health Services and the Board of Medical Quality Assurance for developing, updating, publishing and distributing the summary. Physicians and surgeons shall purchase the summary from the Board of Medical Quality Assurance for distribution to their patients as specified in subdivision

(a), and clinics, health facilities and blood collection centers may purchase the summary if they desire.

1710.2. Occupant of property afflicted with or who died from AIDS; failure to disclose to transferee; no cause of action; state preemption of AIDS disclosure

No cause of action arises against an owner of real property or his or her agent, or any agent of a transferee of real property, for the failure to disclose to the transferee the occurrence of an occupant's death upon the real property or the manner of death where the death has occurred more than three years prior to the date the transferee offers to purchase, lease, or rent the real property, or that an occupant of that property was afflicted with, or died from, Human T.Lymphotropic Virus Type III/Lymphadenopathy-Associated Virus. As used in this section, "agent" includes any person licensed pursuant to Part 1 (commencing with Section 10000) of Division 4 of the Business and Professions Code. As used in this section, "transferee" includes a purchaser, lessee, or renter of real property. It is the intention of the Legislature to occupy the field of regulation of disclosure related to deaths occurring upon real property and of AIDS in situations affecting the transfer of real property or any estate or interest in real property. This section shall not be construed to alter the law relating to disclosure pertaining to any other physical or mental condition or disease and this section shall not relieve an owner of an obligation to disclose the physical condition of the premises.

(d) Nothing in this section shall be construed to immunize an owner or his or her agent from making an intentional misrepresentation in response to a direct inquiry from a transferee or a prospective transferee of real property, concerning deaths on the real property.

1712. AIDS testing; required submission; pretest counseling; test procedures; notification; medical services; housing facilities; disclosure

(a) Notwithstanding any other provision of law, a person under the jurisdiction or control of the Department of the Youth Authority is obligated to submit to a test for the probable causative agent of AIDS upon a determination of the chief medical officer of the facility that clinical symptoms of AIDS or

MD~related complex, as recognized by the Centers for Disease Control, is present in the person. In the event that the subject of the test refuses to submit to such a test, the department may seek a court order to require him or her to submit to the test/

(b) Prior to ordering a test pursuant to subdivision (a), the chief medical officer shall ensure that the subject of the test receives pretest counseling. The counseling shall include:

(1) Testing procedures, effectiveness, reliability, and confidentiality.

(2) The mode of transmission of HIV.

(3) Symptoms of AIDS and AIDS-related complex.

(4) Precautions to avoid exposure and transmission. The chief medical officer shall also encourage the subject of the test to undergo voluntary testing prior to ordering a test. The chief medical officer shall also ensure that the subject of the test receives post test counseling.

(c) The following procedures shall apply to testing conducted under this section:

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

(2) The chief medical officer shall order that the blood specimens be transmitted to a licensed medical laboratory which has been approved by the State Department of Health Services for the conducting of AIDS testing, and that tests, including all readily available confirmatory tests, be conducted thereon for medically accepted indications of exposure to or infection with HIV. (8) The subject of the test shall be notified facto- face as to the results of the test.

(d) All counseling and notification of test results shall be conducted by one of the following:

(1) A physician and surgeon who has received training in the subjects described in subdivision (b).

(2) A registered nurse who has received training in the subjects described in subdivision (b).



(3) A psychologist who has received training in the subjects described in subdivision (b) and who is under the purview of either a registered nurse or physician and surgeon who has received training in the subjects described in subdivision (b).

(4) A licensed social worker who has received training in the subjects described in subdivision (b) and who is under the purview of either a registered nurse or physician and surgeon who has received training in the subjects described in subdivision (b).

(5) A trained volunteer counselor who has received training in the subjects described in subdivision (b) and who is under the supervision of either a registered nurse or physician and surgeon who has received training in the subjects described in subdivision (b).

(e) The Department of the Youth Authority shall provide medical services appropriate for the diagnosis and treatment of those infected with HIV.

(f) The Department of the Youth Authority may operate separate housing facilities for wards and inmates who have tested positive for HIV infection and who continue to engage in activities which transmit HIV. These facilities shall be comparable to those of other wards and inmates with access to recreational and educational facilities, commensurate with the facilities available in the institution.

(g) Notwithstanding any other provision of law, the chief medical officer of a facility of the Department of the Youth Authority may do all of the following:

(1) Disclose results of a test for the probable causative agent of AIDS to the superintendent or administrator of the facility where the test subject is confined.

(2) When test results are positive, inform the test subject's known sexual partners or needle contacts in a Department of the Youth Authority facility of the positive results, provided that the test subject's identity is kept confidential. All wards and inmates who are provided with this information shall be provided with the counseling described in subdivision (b).

(3) Include the test results in the subject's confidential medical record which is to be maintained separate from other case files and records.

(h) Actions taken pursuant to this section shall not be subject to subdivisions (a) to (c), inclusive, of Section 199.21 of the Health and Safety Code. In addition, the requirements of subdivision (a) of Section 199.22 of the Health and Safety Code shall not apply to testing performed pursuant to this section.

1797.175. Continuing education standards; examinations for prehospital personnel; training for AIDS treatment

The authority shall establish the standards for continuing education and shall designate the examinations for certification and recertification of all prehospital personnel. The authority shall consider including training regarding the characteristics and method of assessment and treatment of acquired immune deficiency syndrome (AIDS).

1797.188. Definitions; notice by county health officer to prehospital emergency medical care personnel of exposure to certain transmissible diseases; conditions; violations

(a) As used in this section:

(1) "Prehospital emergency medical care person or personnel" means any of the following: an authorized registered nurse or mobile intensive care nurse, emergency medical technician-I, emergency medical technician-II, emergency medical technician-paramedic, lifeguard, firefighter, or peace officer, as defined or described by Sections 1797.56, 1797.80, 1797.82, 1797.84, 1797.182, and 1797.183, respectively, or a physician and surgeon who provides prehospital emergency medical care or rescue service

(2) "Reportable disease or condition" or "a disease or condition listed as reportable" means those diseases prescribed by Subchapter 1 (commencing with Section 2500) of Chapter 4 of Title 17 of the California Administrative Code, as may be amended from time to time.

(3) "Exposed" means at risk for contracting the disease, as defined by regulations of the state department.

(4) "Health facility" means a health facility, as defined in Section 1250, including a publicly operated facility.

(b) All prehospital emergency medical care personnel, whether

volunteers, partly paid, or fully paid who have provided emergency medical or rescue services and have been exposed to a person afflicted with a disease or condition listed as reportable, which can, as determined by the county health officer, be transmitted through oral contact or secretions of the body, including blood, shall be notified that they have been exposed to the disease and should contact the county health officer if all the following are satisfied:

(1) The prehospital emergency medical care person, who has rendered emergency medical or rescue services and has been exposed to a person afflicted with a reportable disease or condition, provides the health facility with his or her name and telephone number at the time the patient is transferred from that prehospital emergency medical care person to the admitting health facility; or the party transporting the person afflicted with the reportable disease or condition provides that health facility with the name and telephone number of the prehospital emergency medical care person who provided the emergency medical or rescue services.

(2) The health facility reports the name and telephone number of the prehospital emergency medical care person to the county health officer upon determining that the person to whom the prehospital emergency medical care person provided the emergency medical or rescue services is diagnosed as being afflicted with a reportable disease or condition.

(c) The county health officer shall immediately notify the prehospital emergency medical care person who has provided emergency medical or rescue services and has been exposed to a person afflicted with a disease or condition listed as reportable, which can, as determined by the county health officer, be transmitted through oral contact or secretions of the body, including blood, upon receiving the report from a health facility pursuant to paragraph (1) of subdivision (b). The county health officer shall not disclose the name of the patient or other identifying characteristics to the prehospital emergency medical care person. Nothing in this section shall be construed to authorize the further disclosure of confidential medical information by the health facility or any prehospital emergency medical care personnel described in this section except as otherwise authorized by law. In the event of the demise of the person afflicted with the reportable disease or condition, the health facility or county health officer shall notify the funeral director, charged with removing the decedent from the health facility, of the reportable disease prior to the release of the decedent from the health facility to the funeral director.

Notwithstanding Section 1798.206, violation of this section is not a misdemeanor.

1797.189. Definitions; notice by county health officer to prehospital emergency medical care personnel of exposure to certain transmissible diseases; conditions; confidential medical information; notice by chief medical examiner-coroner to funeral director; violation of section

(a) As used in this section:

(1) "Chief medical examiner-coroner" means the chief medical examiner or the coroner as referred to in subdivision (m) of Section 24000, Section 24010, subdivisions (k), (m), and (n) of Section 24300, subdivisions (k), (m), and (n) of Section 24304, and Sections 27460 to 27530, inclusive, of the Government Code, and Section 10250.

(2) "Prehospital emergency medical care person or personnel" means any of the following: authorized registered nurse or mobile intensive care nurse, emergency medical technician-I, emergency medical technician-II, emergency medical technician-paramedic, lifeguard, firefighter, or peace officer, as defined or described by Sections 1797.56, 1797.80, 1797.82, 1797.84, 1797.182, and 1797.183, respectively, or a physician and surgeon who provides prehospital emergency medical care or rescue services.

(3) "Reportable disease or condition" or "a disease or condition listed as reportable" means those diseases specified in Subchapter 1 (commencing with Section 2500) of Chapter 4 of Title 17 of the California Administrative Code, as may be amended from time to time.

(4) "Exposed" means at risk for contracting a disease, as defined by regulations of the state department.

(5) "Health facility" means a health facility, as defined in Section 1250, including a publicly operated facility.

(b) Any prehospital emergency medical care personnel, whether volunteers, partly paid, or fully paid who have provided emergency medical or rescue services and have been exposed to a person afflicted with a disease or condition listed as reportable, which can, as determined by the county health officer, be transmitted through oral contact or secretions of the body, including blood, shall be notified that they have been

exposed to the disease and should contact the county health officer if all of the following conditions are met:

(1) The prehospital emergency medical care person, who has rendered emergency medical or rescue services and has been exposed to a person afflicted with a reportable disease or condition, provides the chief medical examiner- coroner with his or her name and telephone number at the time the patient is transferred from that prehospital medical care person to the chief medical examiner coroner; or the party transporting the person afflicted with the reportable disease or condition provides that chief medical examiner-corporer with the name and telephone number of the prehospital emergency medical care person who provided the emergency medical or rescue services.

(2) The chief medical examiner-corporer reports the name and telephone number of the prehospital emergency medical care person to the county health officer upon determining that the person to whom the prehospital emergency medical care person provided the emergency medical or rescue services is diagnosed as being afflicted with a reportable disease or condition.

(c) The county health officer shall immediately notify the prehospital emergency medical care person who has provided emergency medical or rescue services and has been exposed to a person afflicted with a disease or condition listed as reportable, which can, as determined by the county health officer, be transmitted through oral contact or secretions of the body, including blood, upon receiving the report from a health facility pursuant to paragraph (1) of subdivision (b). The county health officer shall not disclose the name of the patient or other identifying characteristics to the prehospital emergency medical care person. Nothing in this section shall be construed to authorize the further disclosure of confidential medical information by the chief medical examiner-corporer or any of the prehospital emergency medical care personnel described in this section except as otherwise authorized by law. The chief medical examiner-corporer, or the county health officer shall notify the funeral director, charged with removing or receiving the decedent afflicted with a reportable disease or condition from the chief medical examiner-corporer, of the reportable disease prior to the release of the decedent from the chief medical examiner-corporer to the funeral director. Notwithstanding Section 1798.206, violation of this section is not a misdemeanor.

#### ARTICLE 4. TEMPORARY REMOVAL OF PRISONERS

2691. Persons convicted of certain sex offenses; removal or release for educational purposes or to community correctional centers; prohibition

No person imprisoned for a felony listed in Section 667.6 shall be removed or released under Section 2690 from the detention institution where he or she is confined for the purpose of attending college classes in any city or county nor shall that person be placed in a community correctional center pursuant to Chapter 9.5 (commencing with section 6250) of Title 7 of Part 3. No person under the jurisdiction of the adult court and confined under the jurisdiction of the Department of the Youth Authority for conviction of a felony listed in Section 667.6 shall be removed or released from the place of confinement for attendance at any educational institution in any city or county.

2692. Inmates afflicted with AIDS

The Director of Corrections may enter into contracts with public or private agencies located either within or outside of the state for the housing, care, and treatment of inmates afflicted with acquired immune deficiency syndrome (AIDS) or AIDS related complex (ARC).

Distribution of AIDS and HIV information to inmates sentenced for drug-related offenses

Subject to the availability of adequate state funding for these purposes, the sheriff of each county shall provide inmates who have been sentenced for drug-related offenses with information about behavior that place a person at high risk for contracting the human immunodeficiency virus (HIV), and about the prevention of the transmission of acquired immune deficiency syndrome (AIDS). Each county sheriff or the chief county probation officer shall provide all inmates who have been sentenced for drug-related offenses, who are within one month of release, or who have been placed on probation, with information about behavior that places a person at high risk for contracting HIV, about the prevention of the transmission of AIDS, and about agencies and facilities that provide testing, counseling, medical, and support services for AIDS victims. Information about AIDS prevention shall be solicited by each county sheriff or chief county probation officer from the State Department of Health Services, the county health officer, or local agencies providing services to persons with AIDS. The Director of Health Services, or his or her designee, shall approve protocols pertaining to the

information to be disseminated under this section.

4201.5. Brochure; genetic defects and AIDS information; marriage license and confidential marriage license applicants

The State Department of Health Services shall prepare and publish a brochure which indicates the possibilities of genetic defects and diseases and a listing of centers available for the testing and treatment of genetic defects and diseases and provides information to a license concerning acquired immune deficiency syndrome (AIDS) informing them of the availability of testing or antibodies to the probable causative agent of AIDS. The State Department of Health Services shall make such brochures available to county clerks who shall distribute a copy of the brochure to all applicants for a marriage license, including applicants for a confidential marriage license and notary publics receiving a confidential marriage license pursuant to subdivision (b) of Section 4213. Each notary public authorizing a confidential marriage under Section 4218 shall distribute a copy of the brochure to applicants for a confidential marriage license. To the extent possible, the State Department of Health Services shall seek to combine in a single brochure all statutorily required information for marriage license applicants.

### ARTICLE 3. PREMARITAL EXAMINATION

4300. Certificate of examination; syphilis; rubella; AIDS, counseling and disclosure; designation of blood specimen

(a) Before any person, who is authorized to issue marriage licenses, shall issue the license, each applicant therefore shall file with him or her a certificate from a duly licensed physician stating that the applicant has been given the examination, including a standard serological test, as may be necessary for the discovery of syphilis, made not more than 30 days prior to the date of issuance of the license, and that, in the opinion of the physician, the person either is not infected with syphilis, or if so infected, is not in a stage of that disease which is or may become communicable to the marital partner.

(b) The certificate shall also state whether the female applicant has laboratory evidence of immunological response to rubella (German measles). The certificate shall not contain evidence of response to rubella where the female applicant

(1) is over 50 years of age, or

(2) has had a surgical sterilization or

(3) presents laboratory evidence of a prior test declaring her immunity to rubella.

(c) The certificate shall indicate that an HIV test, as defined in Section 26 of the Health and Safety including any appropriate confirmatory tests for positive reactors, was offered. It is the intention of the Legislature that the results of the State HIV the licenses applicant, and that follow up counseling by a knowledgeable and experienced person shall be made available.

(d) Disclosure of the results of any test performed in accordance with subdivision (c) shall not be made except as provided in Chapter 1.11 (commencing with Section 199.20) of Division 1 of the Health and Safety Code.

(e) Any person who by law is validly able to obtain a marriage license in the State of California is validly able to give consent to any examinations and tests required by this article. In submitting the blood specimen to the laboratory the physician shall designate that this is a premarital test

#### 5008.1. Distribution of AIDS and HIV information to inmates

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



TITLE 8. MEDICAL TESTING OF PRISONERS

Section

7500 1. General Provisions

7500 2. Procedures for Requiring HIV Testing

7510 3. Notification Requirements

7520 4. Testing Requirements

7530 5. Penalties

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CHAPTER 1. GENERAL PROVISIONS

Section 7500. Legislative findings and declarations.

7501. Legislative intent.

7502. Definitions.

7503. Guidelines.

7504. Inapplicability of certain disclosure and consent provisions in medical testing of prisoners. Repeal

7500. Legislative findings and declarations

The Legislature finds and declares all of the following:

(a) The public peace, health, and safety is endangered by the spread of acquired immune deficiency syndrome (AIDS) within state and local correctional institutions.

(b) The spread of AIDS within prison and jail populations presents a grave danger to inmates within those populations, law enforcement personnel, and other persons in contact with a prisoner infected with the AIDS virus, both during and after the prisoner's confinement. Law enforcement personnel and prisoners are particularly vulnerable to this danger, due to the high number of assaults and other violent acts which occur within correctional institutions.

(c) AIDS has the frightening potential of spreading more rapidly within the closed society of correctional institutions than outside these institutions. This major public health problem is

compounded by the further potential of rapid spread of communicable disease outside correctional institutions, through contacts of an infected prisoner who is not treated and monitored upon his or her release.

(d) New diseases of epidemic proportions, such as AIDS may suddenly and tragically infect large numbers of people. This title primarily addresses a current problem of this nature, the spread of AIDS among those in correctional institutions and among the people of California

(e) AIDS and AIDS-related conditions pose a major threat to the public health and safety of those governmental employees and others whose responsibilities bring them into most direct contact with persons afflicted with those illnesses, and the protection of the health and safety of these personnel is of equal importance to the people of the State of California as is the protection of the health of those afflicted with the diseases who are held in custodial situations.

(f) Testing described in this title of individuals housed within state and local correctional facilities for evidence of infection by the human immunodeficiency virus (HIV), AIDS, or AIDS related complex would help provide a level of information necessary for effective disease control within these institutions and would help preserve the health of public employees, inmates, and persons in custody as well as that of the public at large. This testing is not intended to be, and shall not be construed as, a prototypical method of disease control for the public at large.

7501. Legislative intent In order to address the public health crisis described in Section 7500, it is the intent of the Legislature to do all of the following:

(a) Establish a procedure through which custodial and law enforcement personnel are required to report certain situations and may request and be granted a confidential HIV test of an inmate convicted of a crime, or a person arrested or taken into custody, if the custodial or law enforcement officer has reason to believe he or she has come into contact with the blood or semen of an inmate or in any other manner has come into contact with the inmate in a way that could result in HIV infection, based on the latest determinations and conclusions by the federal Centers for Disease Control and the State Department of Health Services on means for the transmission of AIDS, and if appropriate medical authorities, as provided for in this title,

reasonably believe there is good medical reason for the test

(b) Permit inmates to file similar requests stemming from contacts with other inmates.

(c) Require that probation and parole officers be notified when an inmate being released from incarceration is infected with AIDS, and permit these officers to notify certain persons who will come into contact with the parolee or probationer, if authorized by law.

(d) Authorize prison medical staff authorities to require tests of a jail or prison inmate under certain circumstances, if they reasonably believe, based upon the existence of supporting evidence, that the inmate may be suffering from AIDS or AIDS-related diseases and is a danger to other inmates or staff.

(e) Require supervisory and medical personnel of correctional institutions to which this title applies to notify staff if they are coming into close and direct contact with persons in custody who have tested positive or who have AIDS, and provide appropriate counseling and safety equipment

#### 7502. Definitions

As used in this title, the following terms shall have the following meanings:

(a) "Correctional institution" means any state prison, county jail, city jail, California Youth Authority facility, county or city juvenile facility, including juvenile halls, camps, or schools, or any other state or local correctional institution.

(b) "Counseling" means counseling by a licensed physician and surgeon, registered nurse, or other health professional who meets guidelines which shall be established by the State Department of Health Services for purposes of providing counseling on AIDS to inmates, persons in custody, and other persons pursuant to this title.

(c) "Law enforcement employee" means correctional officers, peace officers, and other staff of a correctional institution, California Highway Patrol officers, county sheriff's deputies, city police officers, parole officers, probation officers, and city, county, or state employees including but not limited to, judges, bailiffs, court personnel, and public defenders, who, as

part of the judicial process involving an inmate of a correctional institution, or a person charged with a crime, including a minor charged with an offense for which he or she may be made a ward of the court under Section 602 of the Welfare and Institutions Code, are engaged in the custody, transportation, or care of these persons.

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

(e) "Human immunodeficiency virus" or "HIV" means the etiologic virus of AIDS.

(f) "HIV test" or "HIV testing" means any clinical laboratory test approved by the federal Food and Drug Administration for HIV, component of HIV, or antibodies to HIV.

(g) "Inmate" means any of the following:

(1) A person in a state prison, or city and county jail, who has been either convicted of a crime or arrested or taken into custody, whether or not he or she has been charged with a crime.

(2) Any person in a California Youth Authority facility, or county- or city- operated juvenile facility, who has committed an act, or been charged with committing an act specified in Section 602 of the Welfare and Institutions Code.

(h) "Bodily fluids" means blood, semen, or any other bodily fluid identified by either the federal Centers for Disease Control or State Department of Health Services in appropriate regulations as capable of transmitting HIV.

(i) "Minor" means a person under 15 years of age.

### 7503. Guidelines

The State Department of Health Services shall adopt guidelines permitting a chief medical officer to delegate his or her medical responsibilities under this title to other qualified physicians and surgeons, and his or her nonmedical responsibilities to other qualified persons, as appropriate. The chief medical officer shall not, however, delegate the duty to determine whether mandatory testing is required as provided for in Chapter 2 (commencing with Section 7510).

7504. Inapplicability of certain disclosure and consent provisions in medical testing of prisoners

Actions taken pursuant to this title shall not be subject to subdivisions (a) to (c), inclusive, of Section 199.21 of the Health and Safety Code. In addition, the requirements of subdivision (a) of Section 199.22 of the Health and Safety Code, shall not apply to testing performed pursuant to this title.

## CHAPTER 2. PROCEDURES FOR REQUIRING HIV TESTING

Section 7510. Reports by law enforcement personnel of contacts with bodily fluids of inmates, etc.; form; submission; chief medical officer.

7511. Decision by chief medical officer to require testing; time; factors; testimony; decision to be in writing and state reasons; distribution of copies.

7512. Requests by inmates for testing of another inmate; submission to chief medical officer; procedures to be followed.

7512.5. Decision by chief medical officer to order tests in absence of reports or requests; symptoms; copies to inmate; nonappealability of decision.

7513. Right to appeal decision.

7514. Counseling; responsibility of chief medical officer; report of requests submitted.

7515. Appeals; three member panel; members; hearing; right of representation; criteria; decision.

7516. Activities known to cause transmission of AIDS virus; reports; investigation; hearing; applicability of section; findings; distribution.

7516.5. Appeals to superior court; persons who may appeal; substantial evidence.

7516.8. Responsibility of chief medical officer to distribute copies of hearing decision.

7517. Records; confidentiality.

7518. Guidelines; consultation.

7519. Failure to submit to tests; grounds for revocation of release, probation, or other sentence; refusal to submit a violation of parole or probation.

7510. Reports by law enforcement personnel of contacts with bodily fluids of inmates, etc form; submission; chief medical officer

(a) A law enforcement employee who believes that he or she came into contact with bodily fluids there an inmate of a correctional institution, a person not in a correctional institution who has been arrested or taken into custody whether or not the person has been charged with a crime, including persons detained for or charged with an offense for which he or she may be made a ward of the county under Section 602 of the Welfare and Institutions Code, or a person on probation or parole due to conviction of a crime, shall report the incident through the completion of a form provided by the state Department of Health Services. The form shall be directed to the chief medical officer, a defined in subdivision (c), who serves the applicable law enforcement agency. Utilizing this form that enforcement employee may request an HIV test of the person who is the subject of the report the forms may be combined with regular incident reports or other forms used by the corrections institution or law enforcement agency.

(b) The report required by subdivision (a) shall be submitted by the end of the law enforcement employee's shift during which the incident occurred, or if not practicable, as soon as possible, but no longer than two days after the incident, except that the chief medical officer may waive the filing period requirement if he or she finds that good cause exists. The report shall include names o: witnesses to the incident, names of persons involved in the incident, and if feasible, any written statements from these parties. The law enforcement employee shall assist in the investigation of the incident, as requested by the chief medical officer.

(c) For purposes of this section and Section 7511, "chief medical officer" means:

(1) In the case of a report filed by a staff member of a state prison, the chief medical officer of that facility.

(2) In the case of a parole officer filing a report, the chief medical officer of the nearest state prison.

(3) In the case of a report filed by an employee of the California Youth Authority, the chief medical officer of the facility.

(4) In the case of a report filed against a subject who is an inmate of a city or county jail or a county- or city operated juvenile facility, or who has been arrested or taken into custody whether or not the person has been charged with a crime, but who is not in a correctional facility, including a person detained for or charged with an offense for which he or she may be made a ward of the court under Section 602 of the Welfare and Institutions Code, the county health officer of the county in which the individual is jailed or charged with the crime.

(5) In the case of a report filed by a probation officer, the county health officer of the county in which the probation officer is employed.

(6) In any instance where the chief medical officer, as determined pursuant to this subdivision, is not a physician or surgeon, the chief medical officer shall designate a physician or surgeon to perform his or her duties under this title.

7511. Decision by chief medical officer to require testing; time; factors; testimony; decision to be in writing and state reasons; distribution of copies

(a) The chief medical officer shall, regardless of whether a report filed pursuant to Section 7510 contains a request for HIV testing, decide whether or not to require HIV testing of the inmate or other person who is the subject of the report filed pursuant to Section 7510, within five calendar days from receipt of the report. If the chief medical officer decides to require HIV testing, he or she shall specify in his or her decision the circumstances, if any, under which follow up testing will also be required.

(b) The chief medical officer shall order an HIV test only if he or she finds that, considering all of the facts and circumstances, there is a significant risk that HIV was transmitted. In making this decision, the chief medical officer shall take the following factors into consideration:

(1) Whether an exchange of bodily fluids occurred which could have resulted in a significant risk of AIDS infection, based on the latest written guidelines and standards established by the

federal Centers for Disease Control and the State Department of Health Services.

(2) Whether the person exhibits medical conditions or clinical findings categorizing him or her as a possible AIDS victim.

(3) Whether the health of the institution staff or inmates may have been endangered as to AIDS infection resulting from the reported incident.

(c) Prior to reaching a decision, the chief medical officer shall receive written or oral testimony from the law enforcement employee filing the report, from the subject of the report, and from witnesses to the incident, as he or she deems necessary for a complete investigation. The decision shall be in writing and shall state the reasons for the decision. A copy shall be provided by the chief medical officer to the law enforcement employee who filed the report and to the subject of the report, and where the subject is a minor, to the parents or guardian of the minor, unless the parent or guardian of the minor cannot be located.

7512. Requests by inmates for testing of another inmate; submission to chief medical officer; procedures to be followed

(a) An inmate of a correctional institution may request HIV testing of another inmate of that institution if he or she has reason to believe that he or she has come into contact with the bodily fluids of that inmate, in situations, which may include, but are not limited to, rape or sexual contact with a potentially infected inmate, tattoo or drug needle sharing, an incident involving injury in which bodily fluids are exchanged, or confinement with a cell mate under circumstances involving possible mingling of bodily fluids. A request may be filed under this section only within two calendar days of the date when the incident causing the request occurred, except that the chief medical officer may waive this filing period requirement when he or she finds that good cause exists.

(b) An inmate in a California Youth Authority facility or any county or city operated juvenile facility who is 15 years of age or older, may file a request for a test of another inmate in that facility, in the same manner as an inmate in a state prison, and is subject to the same procedures and rights. An inmate in a California Youth Authority facility or a county or city operated juvenile facility who is a minor may file such a request through



a staff member of the facility in which he or she is confined. A staff member may file this request on behalf of a minor on his or her own volition if he or she believes that a situation meeting the criteria specified in subdivision (a) has occurred warranting the request. The filing of a request by staff on behalf of an inmate of a California Youth Authority facility or a local juvenile facility shall be within two calendar days of its discovery by staff, except that the chief medical officer may waive this filing period requirement if he or she finds that good cause exists. When a request is filed on behalf of a minor, the facility shall notify the parent or guardian of the minor of the request and seek permission from the parent or guardian for the test request to proceed. If the parent or guardian refuses to grant permission for the test, the Director of the Youth Authority may request the juvenile court in the county in which the facility is located, to run on whether the test request procedure set forth in this title shall continue. The juvenile court shall make a ruling within five days of the case being brought before the court. If the parent or guardian cannot be located, the superintendent of the facility shall approve or disapprove the request for a test.

(c) Upon receipt of a request for testing as provided in this section, a law enforcement employee shall submit the request to the chief medical officer, the identity of which shall be determined as if the request had been made by an employee of the facility. The chief medical officer shall follow the procedures set forth in Section 7511 with respect to investigating the request and reaching a decision as to mandatory testing of the inmate who is the subject of the request. The inmate submitting the request shall provide names or testimony of witnesses within the limits of his or her ability to do so. The chief medical officer shall make his or her decision based on the criteria set forth in Section 7511. A copy of the chief medical officer's decision shall be provided to the person submitting the request for HIV testing, to the subject of the request, and to the superintendent of the correctional institution. In the case of a minor, a copy of the decision shall be provided to the parents or guardian of the minor, unless the parent or guardian of the minor cannot be located.

7512.1 Decision by chief medical officer to order tests in absence of reports or requests; symptoms; copies to inmate; nonappealability of decision

In the absence of the filing of a report pursuant to Section 7510

or a request pursuant to Section 7512, the chief medical officer, may order a test of an inmate if he or she concludes there are clinical symptoms of AIDS or AIDS-related complex, as recognized by the Centers for Disease Control. A copy of the decision shall be provided to the inmate, and where the inmate is a minor, to the parents or guardian of the minor, unless the parent or guardian of the minor cannot be located. Any decision made pursuant to this section shall not be appealable to a three-member panel provided for under Section 7515.

#### 7513. Right to appeal decision

A description of the right to appeal a chief medical officer's decision shall accompany the copies of the decision required to be provided by Sections 7511, 7512, and 7512.5.

#### 7514. Counseling; responsibility of chief medical officer; report of requests submitted

(a) It shall be the chief medical officer's responsibility to see that personal counseling is provided to a law enforcement employee filing a report pursuant to Section 7510, an inmate filing a request pursuant to Section 7512, and any potential test subject, at the time the initial report or request for tests is made, at the time when tests are ordered, and at the time when test results are provided to the employee, inmate, or test subject. The chief medical officer may provide additional counseling to any of these individuals, upon his or her request, or whenever the chief medical officer deems advisable, and may arrange for the counseling to be provided in other jurisdictions. The chief medical officer shall encourage the subject of the report or request, the law enforcement employee who filed the report, the person who filed the request pursuant to Section 7512, or in the case of a minor, the minor on whose behalf the request was filed, to undergo voluntary HIV testing if the chief medical officer deems it medically advisable. All testing required by this title or any voluntary testing resulting from the provisions of this title, shall be at the expense of the appropriate correctional institution.

(b) On or before January 15, 1993, 1994, and 1995, the Department of Corrections, the Department of the California Youth Authority, and each law enforcement agency in which a request for a test has been filed during the previous calendar year, shall report data

to the Joint Committee on Prison Construction and Operations on all requests made during that period, plus specifics of the disposition of each request, the counseling provided, and its extent for each case. This data shall be provided by the committee to the Legislative Analyst, who shall compile a report to the Legislature on or before January 30, 1995, on whether the program is meeting the objectives of this title. The report shall include a recommendation on whether the program should be continued, terminated, or changed. The Legislative Analyst shall consult with the Office of AIDS, within the State Department of Health Services, in preparing its evaluation. Names of persons seeking tests or the subject of a request for a test shall not be included in any document made public as a result of this section. Notwithstanding the repeal of this section in accordance with Section 7555, the duties imposed by this subdivision shall continue in effect until they have been complied with.

7515. Appeals; three-member panel; members; hearing; right of representation; criteria; decision

(a) A decision of the chief medical officer made pursuant to Section 7511, 7512, or 7516 may be appealed, within three calendar days of receipt of the decision, to a three-person panel, either by the person required to be tested, or his or her parent or guardian when the subject is a minor, the law enforcement employee filing a report pursuant to either Section 7510 or 7516, or the person requesting testing pursuant to Section 7512, whichever is applicable, or the chief medical officer, upon his or her own motion. If no request for appeal is filed under this subdivision, the chief medical officer's decision shall be final.

(b) A panel required pursuant to subdivision (a) shall consist of three members, as follows:

(1) The chief medical officer making the original decision.

(2) When the decision arises out of a report filed pursuant to Section 7510, a supervisory representative from the law enforcement agency employing the person who filed the report. When a decision arises out of a chief medical officer's decision made pursuant to Section 7512.5, a supervisory representative of the correctional institution appointed by the institution's superintendent. When the decision arises out of a request filed pursuant to Section 7512, a supervisory representative of the law enforcement agency with jurisdiction over the facility.

(3) A physician and surgeon not on the staff of, or under contract with, a state, county, or city correctional institution or with an employer of a law enforcement employee as defined in subdivision (b) of Section 7502, and who has knowledge of the diagnosis and treatment of AIDS. The physician and surgeon appointed pursuant to this paragraph shall be selected by the State Department of Health Services from among a list of persons to be compiled by that department. The State Department of Health Services shall adopt standards for selecting persons for the list required by this paragraph, as well as for their reimbursement, and shall, to the extent possible, utilize its normal process for selecting consultants in compiling this list. The physician and surgeon appointed pursuant to this paragraph shall preside at the hearing and serve as chairperson.

A correctional institution or a county may create an ongoing panel or panels to hear appeals under this section, except that one member each shall meet the requirements of paragraphs (1), (2), and (3). No panel shall be created under this paragraph by a state correctional institution except with the prior approval of the State Department of Health Services, and no panel shall be created pursuant to this paragraph by a county or city correctional institution except with the prior approval of the county health officer.

(c) A hearing conducted pursuant to this section shall be closed, except that each of the following persons shall have the right to attend the hearing, speak on the issues presented at the hearing, and call witnesses to testify at the hearing:

(1) The chief medical officer, who may also bring staff essential to the hearing, as well as the other two members of the panel.

(2) The subject of the chief medical officer's decision, except that a subject who is a minor may attend only with the consent of his or her parent or guardian, and if the subject is a minor, his or her parent or guardian.

(3) The law enforcement employee filing the report pursuant to Section 7510, or the person requesting HIV testing pursuant to Section 7512, whichever is applicable, and if the person is a minor, his or her parent or guardian.

(d) The subject of the test, or the person requesting the test pursuant to Section 7512, or who filed the report pursuant to Section 7510, whichever is applicable, may appoint a representative to attend the hearing in order to assist him or her.

(e) When a hearing is sought pursuant to this section, the decision shall be rendered within 10 days of the date upon which the appeal is filed pursuant to subdivision (a). A unanimous vote of all the panel shall be necessary in order to require that the subject of the hearing undergo HIV testing. The criteria specified in Section 7511 for use by the chief medical officer shall also be utilized by the panel in making its decision. The decision shall be in writing, stating reasons for the decision, and shall be signed by the members. A copy shall be provided by the chief medical officer to the person requesting the test, or filing the report, whichever is applicable, to the subject of the test, and, when the subject is in a correctional institution, to the superintendent of the institution, except that when the subject of the test or the person upon whose behalf the request for the test was made is a minor, copies shall also be provided to the parent or guardian of the person, unless the parent or guardian cannot be located.

7516. Activities known to cause transmission of AIDS virus; reports; investigation; hearing; applicability of section; findings; distribution

(a) When a custodial officer or staff person of a correctional institution, observes or is informed of activity in a correctional institution that is classified as causing, or known to cause, the transmission of the AIDS virus, as described in subdivision (b), he or she may file a written report with the facility's chief medical officer which, in the case of city or county jails, shall be the county health officer.

(b) Reportable activities within a correctional institution for which a report may be filed pursuant to subdivision (a) include, but are not limited to, all of the following activities, if they could result in the transmission of AIDS, according to the standards provided for in this chapter:

(1) Sexual activity resulting in exchange of bodily fluids.

(2) IV drug use.

(3) Incidents involving injury to inmates or staff in which bodily fluids are exchanged.

(4) Tampering with medical and food supplies or medical or food equipment.

(5) Tattooing among inmates.

(c) The medical officer may investigate the report, conduct interviews, and determine whether the situation reported caused the probable exchange of body fluids in a manner that could result in the transmission of HIV, utilizing the criteria set forth in Section 7511, and pose a danger to the health and safety of the institution's staff and inmate population. If the chief medical officer concludes this may have occurred, he or she shall require HIV testing of any inmate which he or she deems necessary pursuant to the investigation. Whenever an inmate is required to undergo an HIV test pursuant to this subdivision, he or she may appeal that decision as provided for in Section 7515.

(d) Testing under this section may only be required by a unanimous vote of all three members of the panel. The rights guaranteed inmates under Section 7515 shall apply.

When a hearing is convened pursuant to this section, the hearing shall be closed, except that both the person filing the original report and the chief medical officer as well as other panel members may also call witnesses to testify at the hearing. When a hearing is sought pursuant to this section, the decision shall be rendered within 20 days of the date the hearing is sought by the medical officer.

(e) This section shall apply to situations involving individual inmates or group situations but shall not be utilized to require testing of all inmates in a correctional institution.

(f) The findings of the panel shall be set forth in writing, including reasons for the panel's decision, and shall be signed by the members of the panel. A copy of the decision shall be provided to the superintendent of the correctional institution, the subjects of the report and to any inmates or officers whom the panel concludes may have been exposed to HIV infection as established by provisions of this title.

7516.5. Appeals to superior court; persons who may appeal; substantial evidence

Any decision by a panel pursuant to Section 7515 or 7516 may be appealed to the superior court, either by a law enforcement employee filing a report pursuant to Section 7510, a person requesting an HIV test pursuant to Section 7512, a medical officer convening a panel pursuant to Section 7516, or any person

required to be tested pursuant to a panel's decision. A person required to be tested pursuant to Section 7512.5 may also appeal the decision to the superior court. The court shall schedule a hearing as expeditiously as possible to review the decision of the panel or a decision made pursuant to Section 7512.5. The court shall uphold the decision being appealed if that decision is based upon substantial evidence.

#### 7516.8. Responsibility of chief medical officer to distribute copies of hearing decision

It shall be the responsibility of the chief medical officer to see that copies of the hearing decision are distributed in accordance with requirements of this chapter.

#### 7517. Records; confidentiality

Except as otherwise permitted by this title or any provision of law, any records, including decisions of a chief medical officer or an appeals panel, compiled pursuant to this chapter shall be confidential.

#### 7518. Guidelines; consultation

(a) The State Department of Health Services shall, in consultation with local and state law enforcement agencies, county health officers, and federal health authorities, adopt guidelines for the making of decisions pursuant to this chapter.

(b) Oversight responsibility for implementation of Section 7515 in state prisons shall be vested with the Chief of Medical Services in the Department of Corrections. Oversight responsibility for implementation of Section 7515 in California Youth Authority facilities shall be vested with the Chief of Medical Services in the Department of the Youth Authority. Oversight responsibility for implementation of Section 7515 with respect to reports involving parole or probation officers shall be vested with the Chief of Parole and Community Services Division in the Department of Corrections. Oversight responsibility at the county level shall rest with the county health officer.

7519. Failure to submit to tests; grounds for revocation of release, probation, or other sentence; refusal to submit a violation of parole or probation

(a) When an individual, including a minor charged with an offense for which he or she may be made a ward of the court under Section 602 of the Welfare and Institutions Code, has either been charged with a crime, but is not being held in a correctional institution due to his or her release, either through the granting of bail, a release on the individual's own recognizance, or for any other reason, or been convicted of a crime, but not held in a correctional institution due to the imposition of probation, a fine, or any other alternative sentence, and the individual is required to undergo initial or follow up testing pursuant to this title, the failure of the individual to submit to the test may be grounds for revocation of the individual's release or probation or other sentence, whichever is applicable.

(b) Any refusal by a parolee or probationer to submit to testing required pursuant to this title may be ruled as a violation of the person's parole or probation.

7520. Release of inmate diagnosed as having AIDS, etc.; notice to parole or probation officer; contact with health department

Upon the release of an inmate from a correctional institution, a medical representative of the institution shall notify the inmate's parole or probation officer, where it is the case, that the inmate has tested positive for infection with HIV, or has been diagnosed as having AIDS or AIDS-related conditions. The representative of the correctional institution shall obtain the latest available medical formation concerning any precautions which should be taken under the circumstances, and shall convey that information to the parole or probation officer. When a parole or probation officer learns from responsible medical authorities that a parolee or probationer under his or her jurisdiction has AIDS, or AIDS-related conditions, or has tested positive for HIV infection, the parole or probation officer shall be responsible for ensuring that the parolee or probationer contacts the county health department in order to be, or through his or her own physician and surgeon is, made aware of counseling and treatment for AIDS commensurate with that available to the general population of that county.



7521. Notice to spouse; notice to law enforcement officers; confidentiality; penalty for willful use or disclosure; misdemeanor

(a) When a parole or probation officer learns from responsible medical authorities that a parolee or probationer in his or her custody has any of the conditions listed in Section 7520, but that the parolee or probationer has not properly informed his or her spouse, the officer may ensure that this information is relayed to the spouse only through either the chief medical officer of the institution from which the person was released or the physician and surgeon treating the spouse or the parolee or probationer. The parole or probation officer shall seek to ensure that proper counseling accompanies release of this information to the spouse, through the person providing the information to the inmate's spouse.

(b) If a parole or probation officer has received information from appropriate medical authorities that one of his or her parolees or probationers has AIDS or AIDS-related conditions, and the parolee or probationer has a record of assault on a peace officer, and the officer seeks the aid of local law enforcement officers to apprehend or take into custody the parolee or probationer, he or she shall inform the officers assisting him or her in apprehending or taking into custody the parolee or probationer, of the person's condition, to aid them in protecting themselves from contracting AIDS.

(c) Local law enforcement officers receiving information pursuant to this subdivision shall maintain confidentiality of information received pursuant to subdivision (b). Willful use or disclosure of this information is a misdemeanor. Parole or probation officers who willfully or negligently disclose

7522. Supervisory and medical personnel in correctional institutions; information to employees

(a) Supervisory and medical personnel in correctional institutions shall notify all law enforcement employees when those employees have had direct contact with the bodily fluids of, inmates or persons charged or in custody who either have tested positive for infection with HIV, or been diagnosed as having AIDS or AIDS-related conditions.

(b) Supervisory and medical personnel at correctional institutions shall provide to employees covered by this section

the latest medical information regarding precautions to be taken under the circumstances, and shall furnish proper protective clothing and other necessary protective devices or equipment, and instruct staff on the applicability of this title.

7523. Confidentiality of information obtained by law enforcement employees or panel

Information obtained by a law enforcement employee pursuant to this chapter shall be confidential, and shall not be disclosed except as specifically authorized by this chapter. Information obtained by a member of a panel pursuant to Section 7515 or 7516 shall not be disclosed except as authorized by this title.

#### CHAPTER 4. TESTING PROCEDURES

Section 7530. Application under this title.

7531. Disclosure of positive test results; prohibition; exception.

7530. Application under this title

The following procedures shall apply to testing conducted under this title:

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

(b) The chief medical officer, as specified in Chapter 2 (commencing with Section 7510), shall order that the blood specimens be transmitted to a licensed medical laboratory which has been approved by the State Department of Health Services for the conducting of HIV testing, and that tests including all readily available confirmatory tests, be conducted thereon for medically accepted indications of exposure to or infection with HIV. The State Department of Health Services shall adopt standards for the approval of medical laboratories for the conducting of HIV testing under this title. The State Department of Health Services shall adopt standards for the conducting of

tests under Section 7530.

(c) Copies of the test results shall be sent by the laboratory to the chief medical officer who made the decision under either Section 7511 or 7512 or who convened the panel under Section 7515 or 7516. The laboratory shall be responsible for protecting the confidentiality of these test results. Willful or negligent breach of this responsibility shall be grounds for a violation of the contract.

(d) The test results shall be sent by the chief medical officer to the designated recipients with the following disclaimer: "The tests were conducted in a medically approved manner but tests cannot determine exposure to or infection by AIDS or other communicable diseases with absolute accuracy. Persons receiving this test result should continue to monitor their own health and should consult a physician as appropriate."

(e) If the person subject to the test is a minor, copies of the test result shall also be sent to the minor's parents or guardian.

(f) All persons, other than the test subject, who receive test results shall maintain the confidentiality of personal identifying data relating to the test results, except for disclosure which may be necessary to obtain medical or psychological care or advice, or to comply with this title.

(g) The specimens and the results of the tests shall not be admissible evidence in any criminal or disciplinary proceeding.

(h) Any person performing testing, transmitting test results, or disclosing information in accordance with this title shall be immune from civil liability for any action undertaken in accordance with this title.

7531. Disclosure of positive test results; prohibition; exception

Notwithstanding any other provision of law, no positive test results obtained pursuant to this title shall be disclosed to any person unless the initial positive test result has been confirmed by appropriate confirmatory tests for positive reactors.

CHAPTER 5. PENALTIES

Section 7540. Violations.

A person committing any of the following acts shall be guilty of a misdemeanor:

(a) Willful false reporting in conjunction with a report or a request for testing under this title.

(b) Willful use or disclosure of test results or confidential information in violation of any of the provisions of this title.

CHAPTER 6. MISCELLANEOUS PROVISIONS

Section

7550. Forms.

7551. Agency responsibilities; informing staff; implementation of title.

7552. Prevention and education programs; goals.

7553. Periodic anonymous unlinked serologic surveys.

7554. Agency's responsibility to report disposition of reportable incidents; confidentiality; release of data; misdemeanor.

7555. Duration of title; effect on proceedings already commenced.

7550. Forms The State Department of Health Services shall prepare standardized forms for the reports, notices, and findings required by this title, and distribute these forms to the Department of Corrections, the Department of the Youth Authority, and to each county health officer within three months of the effective date of this title.

7552. Prevention and education programs; goals

(a) It is recommended that every city or county correctional, custodial, and law enforcement agency to which this title applies have a comprehensive AIDS and HIV prevention and education program in operation, by March 31, 1989. Recommended goals for the programs include all of the following:

(1) Education. Implementation of an educational plan which includes education and training for officers, support staff, and inmates on the prevention and transmission of HIV, with regular updates, at least every three months, with all persons held in custody for at least 12 hours in a correctional institution being provided at least with a pamphlet approved by the county health officer, with more detailed education for persons kept beyond three days.

(2) Body fluid precautions. Because all bodily fluids are considered as potentially infectious, supplying all employees of correctional institutions with the necessary equipment and supplies to follow accepted universal bodily fluids precautions, including gloves and devices to administer cardiopulmonary resuscitation, when dealing with infected persons or those in high-risk groups for HIV infection.

(3) Separate housing for infected individuals. Making available adequate separate housing facilities for housing inmates who have tested positive for HIV infection and who continue to engage in activities which transmit HIV, with facilities comparable to those of other inmates with access to recreational and educational facilities, commensurate with the facilities available in the correctional institution.

(4) Adequate AIDS medical services. The provision of medical services appropriate for the diagnosis and treatment of HIV infection.

(5) These guidelines are advisory only and do not constitute a state mandate.

(b) The program shall require confidentiality of information in accordance with this title and other provisions of the law.

(c) The Board of Corrections and the State Department of Health Services shall assist in developing the programs.

#### 7553. Periodic anonymous unlinked serologic surveys

With the approval of the county health officer, the State Department of Health Services, as it deems necessary for HIV detection and prevention, may conduct periodic anonymous unlinked serologic surveys of all or portions of the inmate population or persons under custody within a city or county.

7554. Agency responsibility to report disposition of reportable Incidents; confidentiality; release of data; misdemeanors

(a) The purpose of this section is to establish the extent of peace officers' occupational exposure for HIV infection.

(b) The correctional, custodial, or law enforcement agency to which this title applies or the chief medical officer of a correctional, custodial, or law enforcement agency to which this title applies shall report each reportable incident involving a law enforcement employee under this title together with the disposition of each case to the State Department of Health Services. The report shall include all of the following: the assignment of the law enforcement employee; the type of incident; the type of injury sustained; the treatment rendered to the injured employee; citations to criminal laws which were allegedly violated; and the identity of the employing agency. Under no circumstances shall the identity of the law enforcement employee or the source person be transmitted by the local law enforcement agency or the chief medical officer of the local agency to the State Department of Health Services.

(c) The State Department of Health Services shall release the data, upon written request, to any law enforcement agency or to any bona fide, nonprofit law enforcement research body primarily concerned with peace officer health issues, provided that the identity of any law enforcement employee, any person who is the subject of a report, or any tested person under this title shall remain anonymous. Any unauthorized release of information leading to the identity of a person whose identity is protected under this section shall constitute a misdemeanor.

(d) For purposes of this section, a "reportable incident" means an incident described in subdivision (a) of Section 7510. A "source person" means a person whose bodily fluids are believed to have contacted the bodily fluids of a law enforcement employee as described in subdivision (a) of Section 7510. 7555. Definition of title; effect on proceedings already commenced This title shall remain operative only until July 1, 1994, and as of January 1, 1995, is repealed, unless a later enacted statute, which is enacted before January 1, 1995, deletes or extends the dates upon which this title becomes inoperative and is repealed. Notwithstanding this section, whenever, prior to July 1, 1994, a law enforcement agency employee who filed a report pursuant to Section 7510, or a request for a human immunodeficiency virus (HIV) test has been filed pursuant to Section 7512, or any other

procedure for requiring a test has been commenced pursuant to this title, the proceedings shall be permitted to continue on or after July 1, 1994, until they have been concluded.

## Article 2 RED LIGHT ABATEMENT LAW

Section 11225. Place of illegal gambling, prostitution, etc.; place used as bathhouse permitting conduct capable of transmitting AIDS; nuisance; injunction, abatement, and prevention.

(a) Every building or place used for the purpose of illegal gambling as defined by state law or local ordinance, lewdness, assignation, or prostitution, and every building or place in or upon which acts of illegal gambling as defined by state law or local ordinance, lewdness, assignation, or prostitution, are held or occur, is a nuisance which shall be enjoined, abated, and prevented, and for which damages may be recovered, whether it is a public or private nuisance. Nothing in this subdivision shall be construed to apply the definition of a nuisance to a private residence where illegal gambling is conducted on an intermittent basis and without the purpose of producing profit for the owner or occupier of the premises.

(b) Every building or place used as a bathhouse which as a primary activity encourages or permits conduct that according to the guidelines of the federal Centers for Disease Control can transmit AIDS, including, but not limited to, anal intercourse, oral copulation, or vaginal intercourse, is a nuisance which shall be enjoined, abated, and prevented, and for which damages may be recovered, whether it is a public or private nuisance. For purposes of this subdivision, a "bathhouse" means a business which, as its primary purpose, provides facilities for a spa, whirlpool, communal bath, sauna, steam bath, mineral bath, mud bath, or facilities for swimming.

## ALCOHOL DETOXIFICATION AND IV DRUG USER AIDS EDUCATION PILOT PROJECT

Section 11758.50. Legislative findings and declarations.

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

11758.52. Treatment of drug and alcohol abusers; client contact.

11758.53. Administration

1758.50. Legislative findings and declarations

The Legislature finds 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 an 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 follow up.
- (7) Rate of subsequent referrals

(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 follow up 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.

Section 11759. Funds for program; implementation in schools.

11759.1. Commission to evaluate pilot project; membership.

11759.2. Duration of chapter.

11759. Funds for program; implementation in schools

The State Department of Alcohol and Drug Programs shall provide funding to the Whittier Host Lions Club to conduct a three-year drug prevention pilot program, to be known as the Skills for Adolescence Program, or the "Quest" program. The program may, with the consent of the school district, be implemented in all fifth, sixth, and seventh grade classes in both the Whittier City School District and the East Whittier School District. The program shall train teachers in drug prevention education and shall provide instructional materials to students on drug prevention

11998.1. Legislative intent; long-term five-year goals

It is the intent of the Legislature that the following long-term five-year goals be achieved:

(a) With regard to education and prevention of drug and alcohol abuse programs, the following goals:

(1) Drug and alcohol abuse education has been included within the mandatory curriculum in kindergarten and grades 1 to 12, inclusive, in every public school in California.

(2) Basic training on how to recognize, and understand what to do about, drug and alcohol abuse has been provided to administrators and all teachers of kindergarten and grades 1 to 12, inclusive.

(3) All school counselors and school nurses have received comprehensive drug and alcohol abuse training.

(4) Each public school district with kindergarten and grades 1 to 12, inclusive, has appointed a drug and alcohol abuse advisory team of school administrators, teachers, counselors, students, parents, community representatives, and health care professionals, all of whom have expertise in drug and alcohol abuse prevention. The team coordinates with and receives consultation from the county alcohol and drug program

administrators.

(5) Every school board member has received basic drug and alcohol abuse information.

(6) Each school district has a drug and alcohol abuse specialist to assist the individual schools.

(7) Each school in grades 7 to 12, inclusive, has student peer group drug and alcohol abuse programs.

(8) Every school district with kindergarten and grades 1 to 12, inclusive, has updated written drug and alcohol abuse policies and procedures including disciplinary procedures which will be given to every school employee, every student, and every parent.

(9) The California State University and the University of California have evaluated and, if feasible, established educational programs and degrees in the area of drug and alcohol abuse.

(10) Every school district with kindergarten and grades 1 to 12, inclusive, has an established parent teachers group with drug and alcohol abuse prevention goals.

(11) Every school district has instituted a drug and alcohol abuse education program for parents.

(12) Drug and alcohol abuse training has been imposed as a condition for teacher credentialing and license renewal, and knowledge on the issue is measured on the California Basic Education Skills Test.

(13) Drug and alcohol abuse knowledge has been established as a component on standardized competency tests as a requirement for graduation.

(14) Every school district has established a parent support group.

(15) Every school district has instituted policies which address the special needs of children who have been rehabilitated for drug or alcohol abuse problems and who are reentering school. These policies shall consider the loss of school time, the loss of academic credits, and the sociological problems associated with drug and alcohol abuse, its rehabilitation, and the educational delay it causes.

(16) The number of drug and alcohol abuse related incidents on

school grounds has decreased by 20 percent.

(b) With regard to community programs, the following goals:

(1) Every community-based social service organization that receives state and local financial assistance has drug and alcohol abuse information available for clients.

(2) All neighborhood watch, business watch, and community conflict resolution programs have included drug and alcohol abuse prevention efforts.

(3) All community-based programs that serve school aged children have staff trained in drug and alcohol abuse and give a clear, drug- and alcohol-free message.

(c) With regard to drug and alcohol abuse programs of the media, the following goals:

(1) The state has established a comprehensive media campaign that involves all facets of the drug and alcohol abuse problem, including treatment, education, prevention, and intervention that will result in increasing the public's knowledge and awareness of the detrimental effects of alcohol and drug use, reducing the use of alcohol and drugs, and increasing healthy lifestyle choices.

(2) The department on a statewide basis, and the county board of supervisors or its designees at the local level, have: (A) Assisted the entertainment industry in identifying ways to effectively use the entertainment industry to encourage lifestyles free of substance abuse.

(B) Assisted the manufacturers of drug and alcohol products in identifying ways to effectively use product advertising to discourage substance abuse.

(C) Assisted television stations in identifying ways to effectively use television programming to encourage lifestyles free of substance abuse.

(3) A statewide cooperative fund raising program with recording artists and the entertainment industry has been encouraged to fund drug and alcohol abuse prevention efforts in the state.

(d) With regard to drug and alcohol abuse health care programs, the following goals:

(1) The number of drug and alcohol abuse-related medical emergencies has decreased by 4 percent per year.

(2) All general acute care hospitals and AIDS medical service providers have provided information to their patients on drug and alcohol abuse.

(3) The Medical Board of California, the Psychology Examining Committee, the Board of Registered Nursing, and the Board of Behavioral Science Examiners have developed and implemented the guidelines or regulations requiring drug and alcohol abuse training for their licensees, and have developed methods of providing training for those professionals.

(e) With regard to private sector drug and alcohol abuse programs, the following goals:

(1) A significant percentage of businesses in the private sector have developed personnel policies that discourage drug and alcohol abuse and encourage supervision, training, and employee education.

(2) Noteworthy and publicly recognized figures and private industry have been encouraged to sponsor fundraising events for drug and alcohol abuse prevention.

(3) Every public or private athletic team has been encouraged to establish policies forbidding drug and alcohol abuse.

(4) The private sector has established personnel policies that discourage drug and alcohol abuse but encourage treatment for those employees who require this assistance.

(f) With regard to local government drug and alcohol abuse programs, the following goals:

(1) Every county has a five-year master plan to eliminate drug and alcohol abuse developed jointly by the county designated alcohol and drug program administrators, reviewed jointly by the advisory boards set forth in paragraph (2), and approved by the board of supervisors. For those counties in which the alcohol and drug programs are jointly administered, the administrator shall develop the five-year master plan. To the degree possible, all existing local plans relating to drug or alcohol abuse shall be incorporated into the master plan.

(2) Every county has an advisory board on alcohol problems and an advisory board on drug programs. The membership of these advisory boards is representative of the county's population and is geographically balanced.

To the maximum extent possible the county advisory board on alcohol problems and the county advisory board on drug programs will have representatives of the following:

(A) Law enforcement.

(B) Education.

(C) The treatment and recovery community, including a representative with expertise in AIDS treatment services.

(D) Judiciary

(E) Students.

(F) Parents.

(G) Private industry.

(H) Other community organizations involved in drug and alcohol services.

(I) A representative of organized labor responsible for the provision of Employee Assistance Program services. If any of these areas are not represented on the advisory bodies, the administrator designated in paragraph

(1) shall solicit input from a representative of the nonrepresented area prior to the development of a master plan pursuant to paragraph (1).

(3) Every county public social service agency has established policies that discourage drug and alcohol abuse and encourage treatment and recovery services when necessary.

(4) Every local unit of government has an employee assistance program that addresses drug and alcohol abuse problems.

(5) Every local unit of government has considered the potential for drug and alcohol abuse problems when developing zoning ordinances and issuing conditional use permits.

(6) Every county master plan includes treatment and recovery services.

(6.5) Every county master plan includes specialized provisions to ensure optimum alcohol and drug abuse service delivery for handicapped and disabled persons.

(7) Every local unit of government has been encouraged to establish an employee assistance program that includes the treatment of drug and alcohol abuse-related programs.

(8) Every local governmental social service provider has established a referral system under which clients with drug and alcohol abuse problems can be referred for treatment.

(9) Every county drug and alcohol abuse treatment or recovery program which serves women gives priority for services to pregnant women.

(10) Every alcohol and drug abuse program provides acquired immune deficiency syndrome (AIDS) information to all program participants.

(g) With regard to state and federal government drug and alcohol abuse programs, the following goals:

(1) The Department of Alcoholic Beverage Control has informed all alcohol retailers of the laws governing liquor sales and has provided training available to all personnel selling alcoholic beverages, on identifying and handling minors attempting to purchase alcohol.

(2) The Office of Criminal Justice Planning has required all applicants for crime prevention and juvenile justice and delinquency prevention funds to include drug and alcohol abuse prevention efforts in their programs.

(3) All county applications for direct or indirect drug and alcohol services funding from the department include a prevention component.

(4) The Superintendent of Public Instruction has employed drug and alcohol abuse school prevention specialists and assisted local school districts with the implementation of prevention programs.

(5) The State Department of Mental Health has staff trained in drug and alcohol abuse prevention who can assist local mental health programs with prevention efforts.

(6) The Department of the California Highway Patrol, as permitted by the United States Constitution, has established routine statewide sobriety checkpoints for driving while under the influence.



(7) The Department of Corrections and the Department of the Youth Authority have provided drug and alcohol abuse education and prevention services for all inmates, wards, and parolees. Both departments have provided drug and alcohol abuse treatment services for any inmate, ward, or parolee determined to be in need of these services, or who personally requests these services.

(8) The Department of Motor Vehicles has distributed prevention materials with each driver's license or certificate of renewal and each vehicle registration renewal mailed by the Department of Motor Vehicles.

(9) Federal prevention programs have been encouraged to follow the master plan.

(10) State licensing and program regulations for drug and alcohol abuse treatment programs have been consolidated and administered by one state agency.

(11) State treatment funding priorities have been included to specially recognize the multiple diagnosed client who would be eligible for services from more than one state agency.

(12) Every state agency has formalized employee assistance programs that include the treatment of drug and alcohol abuse-related problems.

(13) The state master plan includes specialized provisions to ensure optimum drug and alcohol abuse service delivery for handicapped and disabled persons.

(14) The Department of Commerce, in coordination with private industry, encourages the creation of employee alcohol and drug abuse prevention programs in the workplace or provides information to employees on treatment or recovery programs that are available to them.