

/* MICHIGAN's statutes follow: */

333.2843b. Presence of infectious agent in deceased person; notice to funeral director or agent by physician; effective date; confidentiality; rules

Sec. 2843b. (1) If, at the time of death, a physician who is required to complete the medical certification under section 2843(1)(a) has actual knowledge of the presence in the deceased individual of an infectious agent, including acquired immunodeficiency syndrome-related virus, the physician shall notify the funeral director or the funeral director's authorized agent of the appropriate infection control precautions to be taken. The notification required by this subsection shall occur before the body is released to the funeral director or the funeral director's authorized agent. A funeral director or funeral director's authorized agent who receives notification under this subsection shall not refuse to render services as a result of having received the notification. This subsection shall take effect on the effective date of the rules required by subsection (3).

(2) The information contained in the notification required by subsection (1) shall be confidential. A person who receives confidential information under this section shall disclose the information to others only to the extent consistent with the authorized purpose for which the information was obtained.

(3) Within 30 days after the effective date of this subsection, the department shall submit for promulgation under section 48 of the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being section 24.248 of the Michigan Compiled Laws, rules which define the term "infectious agent" for purposes of this section.

(4) The department may promulgate rules to administer this section.

(5) A person who violates subsection (2) is guilty of a misdemeanor.

ARTICLE 5. PREVENTION AND CONTROL OF DISEASES, INFECTIONS, AND DISABILITIES

333.5101. Definitions; principles of construction

Sec. 5101. (1) As used in this article:

(a) "Care" includes treatment, control, transportation, confinement, and isolation in a facility Or other location.

(b) "Communicable disease" means an illness due to a specific infectious agent or its toxic products which results from transmission of that agent or its products from a reservoir to a susceptible host, directly as from an infected individual or animal, or indirectly through the agency of an intermediate plant or animal host, vector, or the inanimate environment.

- (c) "HIV" means human immunodeficiency virus.
 - (d) "HIV infection" or "HIV infected" means the status of an individual who has tested positive for HIV, as evidenced by either a double positive enzyme-linked immunosorbent assay test, combined with a positive western blot assay test, or a positive result under an HIV test that is considered reliable by the federal centers for disease control and is approved by the department.
 - (e) "Immunization" means the process of increasing an individual's immunity to a disease by use of a vaccine, antibody preparation, or other substance.
 - (f) "Infection" means the invasion of the body with microorganisms or parasites, whether or not the invasion results in detectable pathologic effects.
 - (g) "Serious communicable disease or infection" means a communicable disease or infection that is designated as serious by the department pursuant to this part. Serious communicable disease or infection includes, but is not limited to, HIV infection, acquired immunodeficiency syndrome, acquired immunodeficiency syndrome related complex, venereal disease, and tuberculosis.
 - (h) "Venereal disease" means syphilis, gonorrhea, chancroid, lymphogranuloma venereum, granuloma inguinale, and other sexually transmitted diseases which the department by rule may designate and require to be reported.
- (2) In addition, article 1 contains general definitions and principles of construction applicable to all articles in this code.

333.5111. Rules

Sec. 5111. (1) In carrying out its authority under this article, the department may promulgate rules to:

- (a) Designate and classify communicable, serious communicable, chronic, other noncommunicable diseases, infections, and disabilities.
- (b) Establish requirements for reporting and other surveillance methods for measuring the occurrence of diseases, infections, and disabilities and the potential for epidemics. Rules promulgated under this subdivision may require a licensed health professional or health facility to submit to the department or a local health department, on a form provided by the department, a report of the occurrence of a communicable disease, serious communicable disease or infection, or disability. The rules promulgated under this subdivision may require a report to be submitted to the department not more than 24 hours after a licensed health professional or health facility determines that an individual has a serious communicable disease or infection.

- (c) Investigate cases, epidemics, and unusual occurrences of diseases, infections, and situations with a potential for causing diseases.
 - (d) Establish procedures for control of diseases and infections, including, but not limited to, immunization and environmental controls.
 - (e) Establish procedures for the prevention, detection, and treatment of disabilities and rehabilitation of individuals suffering from disabilities or disease, including nutritional problems.
 - (f) Establish procedures for control of rabies and the disposition of nonhuman agents carrying disease, including rabid animals.
 - (g) Establish procedures for the reporting of known or suspected cases of lead poisoning or undue lead body burden.
 - (h) Designate communicable diseases or serious communicable diseases or infections for which local health departments are required to furnish care including, but not limited to, tuberculosis and venereal disease.
 - (i) Implement this part and parts 52 and 53 including, but not limited to, rules for the discovery, care, and reporting of an individual having or suspected of having a communicable disease Or a serious communicable disease or infection, and to establish approved tests under section 5125 and approved prophylaxes under section 5127.
- (2) The department shall promulgate rules to provide for the confidentiality of reports, records, and data pertaining to testing, care, treatment, reporting, and research associated with communicable diseases and serious communicable diseases or infections. The rules shall specify the communicable diseases and serious communicable diseases or infections covered under the rules and shall include, but are not limited to, hepatitis B, venereal disease, and tuberculosis. The rules shall not apply to the serious communicable diseases or infections of HIV infection, acquired immunodeficiency syndrome, or acquired immunodeficiency syndrome related complex. The department shall submit the rules for public hearing under the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.201 to 24.328 of the Michigan Compiled Laws, within 90 days after the effective date of this subsection.

333.5113. Objection to medical treatment, testing or examination on religious grounds

Sec. 5113. (1) Except as otherwise provided in part 52 and section 9123, this article and articles 6 and 9 or the rules promulgated under those articles shall not be construed to require the medical treatment, testing, or examination of an

individual who objects on the grounds that the medical treatment, testing, or examination violates the personal religious beliefs of the individual or of the parent, guardian, or person in loco parentis of a minor.

(2) This section does not exempt an individual from compliance with applicable laws, rules, or regulations regarding sanitation and the reporting of diseases as provided by this code.

333.5114. Test results showing HIV infection; reporting requirements

Sec. 5114. (1) Except as otherwise provided in this section and except for a licensed clinical laboratory, a person or governmental entity that obtains from a test subject a test result that indicates that the test subject is HIV infected shall, within 7 days after obtaining the test result, report to the department on a form provided by the department all of the following information:

(a) The name and address of the person or governmental entity that submits the report.

(b) The age, race, sex, and county of residence of the test subject.

(c) The date on which the test was performed.

(d) The test result.

(e) If known, whether or not the test subject has tested positive for the presence of HIV or an antibody to HIV on a previous occasion.

(f) The probable method of transmission.

(g) The purpose of the test.

(h) Any other medical or epidemiological information considered necessary by the department for the surveillance, control, and prevention of HIV infections. Information added by the department under this subdivision shall be promulgated as rules.

(2) Except as otherwise provided in this section and except for a licensed clinical laboratory, a person or governmental entity that obtains from a test subject a test result that indicates that the test subject is HIV infected shall, within 7 days after obtaining the test result, report to the appropriate local health department, on a form provided by the department, all of the information required under subsection (1), but including the name, address, and telephone number of the test subject.

(3) An individual who undergoes a test for HIV or an antibody to HIV in a physician's private practice office or the office of a physician employed by or under contract to a health maintenance organization may request that the report made by the physician under this section not include the name, address, and telephone number of the test subject. Except as otherwise provided in section 5114a, if such a request is made under this subsection,

the physician shall comply with the request.

(4) A local health department shall not maintain a roster of names obtained under this section, but shall maintain individual case files that are encoded to protect the identities of the individual test subjects.

333.51 14a. Referral to local health department; partner notification, information required, priority actions, retention of reports or records; disclosure of information exemption; biennial report

Sec. 5114a.(1) A person or governmental entity that administers a test for HIV or an antibody to HIV to an individual shall refer the individual to the appropriate local health department for assistance with partner notification if both of the following conditions are met:

(a) The test results indicate that the individual is HIV infected.

(b) The person or governmental entity that administered the test determines that the individual needs assistance with partner notification.

(2) A person or governmental entity that refers an individual to a local health department under subsection (1) shall provide the local health department with information determined necessary by the local health department to carry out partner notification. Information required under this subsection may include, but is not limited to, the name, address, and telephone number of the individual test subject.

(3) A local health department to which an individual is referred under subsection (1) shall inform the individual that he or she has a legal obligation to inform each of his or her sexual partners of the individual's HIV infection before engaging in sexual relations with that sexual partner, and that the individual may be subject to criminal sanctions for failure to so inform a sexual partner.

(4) A partner notification program operated by a local health department shall include notification of individuals who are sexual or hypodermic needle-sharing partners of the individual tested under subsection (1). Partner notification shall be confidential and conducted in the form of a direct, one-to-one conversation between the employee of the local health department and the partner of the test subject.

(5) If a local health department receives a report under section 5114(2) that indicates that a resident of this state Or an individual located in this state is HIV infected, the local health department shall make it a priority to do all of the following:

(a) Attempt to interview the individual and offer to contact the

individual's sexual partners and, if applicable, hypodermic needle-sharing or drug-sharing partners. If the subject of the report is determined to have been infected with HIV in utero, the local health department shall attempt to interview the individual's parent or legal guardian, or both. The interview conducted under this subdivision shall be voluntary on the part of the individual being interviewed. The interview or attempted interview required under this subdivision shall be performed by a local health department within 14 days after receipt of a report under section 5114(2).

(b) Within 35 days after the interview conducted pursuant to subdivision (a), confidentially, privately, and in a discreet manner contact each individual identified as a sexual or hypodermic needle-sharing or drug-sharing partner regarding the individual's possible exposure to HIV. The local health department shall not reveal to an individual identified as a partner the identity of the individual who has tested positive for HIV or an antibody to HIV except if authorized to do so by the individual who named the contact, and if needed to protect others from exposure to HIV or from transmitting HIV. The local health department shall provide each individual interviewed under subdivision (a) and each individual contacted under this subdivision with all of the following information:

(i) Available medical tests for HIV, and antibody to HIV, and any other indicator of HIV infection.

(ii) Steps to take in order to avoid transmission of HIV.

(iii) Other information considered appropriate by the department.

(6) The reports, records, and data of a local health department pertaining to information acquired under this section shall be retained by the local health department for not more than 90 days after the date of receipt or for a period established by rule of the department.

(7) Information acquired by the department or a local health department under this section or section 5114 is exempt from disclosure under the freedom of information act, Act No. 442 of the Public Acts of 1976, being sections 15.231 to 15.246 of the Michigan Compiled Laws.

(8) The department in consultation with local health departments shall submit a biennial report to the standing committees in the senate and house of representatives responsible for legislation pertaining to public health on the effect of this section on the department's efforts to monitor and control HIV infection. The report shall include, but not be limited to, statistics on the total number of index cases reported, the total number of index cases reported with information identifying the test subject or a partner of the test subject, and the total number of partners actually contacted under this section, and an assessment of the

effectiveness of the program, and recommendations to improve the effectiveness of the program, if any. The statistics included in the report shall be broken down by local health department jurisdiction.

333.5115. Persons having or suspected of having communicable diseases; procedures for discovery and care
Sec. 5115. The department may establish minimum procedures and standards for health officers and other persons charged with administration and enforcement of the laws of this state relating to the discovery and care of an individual having or suspected of having a communicable disease or a serious communicable disease or infection. The procedures shall be reasonably related to the control and elimination of communicable diseases and serious communicable diseases and infections, and shall not conflict with the procedures for the control and elimination of communicable diseases and serious communicable diseases and infections set forth in this article.

333.5119. Applicants for marriage licenses; venereal disease and AIDS counseling, objections, fees

Sec. 5119. (1) Except as otherwise provided in subsection (4), an individual applying for a marriage license shall be counseled by a physician or a local health officer or a designee of a local health officer regarding the transmission and prevention of venereal disease and HIV infection. The physician, local health officer, or designee of the local health officer shall offer to the applicant tests for both venereal disease and HIV infection. At the time the application for a marriage license is filed, the county clerk shall distribute to each applicant educational materials prepared by the department on topics related to venereal disease, HIV transmission, and prenatal care. The information shall include a list of locations where HIV counseling and testing services funded by the department are available.

(2) A county clerk shall not issue a marriage license to an applicant who fails to present and file with the county clerk 1 of the following:

(a) A certificate indicating that the applicant has received counseling regarding the transmission and prevention of both venereal disease and HIV infection and has been offered testing for both venereal disease and HIV infection, pursuant to subsection (1).

(b) A written objection pursuant to subsection (4).

(3) If either applicant for a marriage license undergoes a test for HIV or an antibody to HIV, and if the test results indicate that an applicant is HIV infected, the physician, local health officer, or designee of the local health officer administering

the test immediately shall inform both applicants of the test results, and shall counsel the applicants regarding the modes of HIV transmission, the potential for HIV transmission to a fetus, and protective measures.

(4) An applicant or prospective applicant for a marriage license may file a written objection with the clerk for the county in which the license is to be issued stating that the counseling requirements of subsection (1) violate the personal religious beliefs of the applicant.

(5) The county clerk for the county in which the license is to be issued may charge a fee for the administrative costs associated with filing the written objection. This fee shall not exceed the amount charged by the local health department for the county for marriage license counseling services as described in subsection (1).

333.5121. Issuance of license without counseling certificate; disclosure of testing or test results; false statements by physicians; enforcement

Sec. 5121. A person who commits any of the following acts is guilty of a misdemeanor:

(a) A county clerk who issues a marriage license to an individual who fails to present a certificate required under section 5119(2).

(b) A person who knows that an applicant for a marriage license has taken a test for venereal disease or HIV infection, or both, under section 5119(1), and who discloses either the fact that the applicant has taken the test or the results of the test, or both, except as required by law, and except as provided under section 5131.

(c) A physician who knowingly and willfully makes a false statement in a certificate given by the physician under section 5119.

333.5123. AIDS test for pregnant women

Sec. 5123. (1) A physician or an individual otherwise authorized by law to provide medical treatment to a pregnant woman shall take or cause to be taken, at the time of the woman's initial examination, test specimens of the Woman and shall submit the specimens to a clinical laboratory approved by the department for the purpose of performing standard venereal disease tests approved by the department, a test for HIV or antibody to HIV, and a test for hepatitis B. This subsection shall not apply if, in the professional opinion of the physician or other person, the tests are medically inadvisable or the woman does not consent to be tested.

(2) The physician or other person shall make and retain a record

showing the date the tests required under subsection (1) were ordered and the results of the tests. If the tests were not ordered by the physician or other person, the record shall contain an explanation of why the tests were not ordered.

(3) The test results and the records required under subsection (2) are not public records, but shall be available to a local health department and to a physician who provides medical treatment to the woman.

333.5127. Minors; care and treatment for venereal disease or AIDS; notice to spouse, parent or guardian; financial responsibility for care and treatment

Sec. 5127. (1) Subject to section 5133,1 the consent to the provision of medical or surgical care, treatment, or services by a hospital, clinic, or physician that is executed by a minor who is or professes to be infected with a venereal disease or HIV is valid and binding as if the minor had achieved the age of majority. The consent is not subject to later disaffirmance by reason of minority. The consent of any other person, including a spouse, parent, or guardian, or person in loco parentis, is not necessary to authorize the services described in this subsection to be provided to a minor.

(2) For medical reasons a treating physician, and on the advice and direction of the treating physician, a physician, a member of the medical staff of a hospital or clinic, or other health professional, may, but is not obligated to, inform the spouse, parent, guardian, or person in loco parentis as to the treatment given or needed. The information may be given to or withheld from these persons without consent of the minor and notwithstanding the express refusal of the minor to the providing of the information.

(3) A spouse, parent, guardian, or person in loco parentis of a minor is not financially responsible for surgical care, treatment, or services provided under this section.

333.5129. Offenses involving prostitution, criminal sexual conduct, intravenous use of controlled substances; HIV transmission information, counseling, HIV testing, disclosure of test results, referrals, definitions

Sec. 5129. (1) An individual arrested and charged with violating section 448, 449, 449a, 450, 452, or 455 of the Michigan penal code, Act No. 328 of the Public Acts of 1931, being sections 750.448, 750.449, 750.449a, 750.450, 750.452, and 750.455 of the Michigan Compiled Laws, or a local ordinance prohibiting prostitution or engaging or offering to engage the services of a prostitute may be examined at the discretion of the local health department to determine whether the individual has venereal

disease.

(2) If an individual is arrested and charged with violating section 338, 338a, 338b, 448, 449, 449a, 450, 452, 455, 520b, 520c, 520d, 520e, or 520g of the Michigan penal code, Act No. 328 of the Public Acts of 1931, being sections 750.338, 750.338a, 750.338b, 750.448, 750.449, 750.449a, 750.450, 750.452, 750.455, 750.520b, 750.520c, 750.520d, 750.520e, and 750.520g of the Michigan Compiled Laws; a local ordinance prohibiting prostitution, solicitation, or gross indecency; or section 7404 by intravenously using a controlled substance, the judge or magistrate responsible for setting the individual's conditions of release pending trial shall distribute to the individual the information on HIV transmission required to be distributed by county clerks under section 5119(1) and shall recommend that the individual obtain additional information and counseling at a local health department testing and counseling center regarding HIV infection, acquired immunodeficiency syndrome, and acquired immunodeficiency syndrome related complex. Counseling under this subsection shall be voluntary on the part of the individual.

(3) Upon conviction of a defendant for a violation of section 338, 338a, 338b, 448, 449, 449a, 520b, 520c, 520d, 520e, or 520g of Act No. 328 of the Public Acts of 1931, being sections 750.338, 750.338a, 750.338b, 750.448, 750.449, 750.449a, 750.520b, 750.520c, 750.520d, 750.520e, and 750.520g of the Michigan Compiled Laws, or a crime involving the intravenous use of a controlled substance in violation of section 7404, the court having jurisdiction of the criminal prosecution shall order the defendant to be tested for the presence of HIV or an antibody to HIV. Upon conviction of a defendant for a violation of section 450, 452, or 455 of Act No. 328 of the Public Acts of 1931, being sections 750.450, 750.452, and 750.455 of the Michigan Compiled Laws, the court having jurisdiction of the criminal prosecution shall order the defendant to be tested for the presence of HIV or an antibody to HIV, unless the court determines that testing the defendant would be inappropriate and documents the reasons for that determination in the court record. The test shall be confidentially administered by a licensed physician, the department of public health, or a local health department. The court also shall order the defendant to receive counseling regarding HIV infection, acquired immunodeficiency syndrome, and acquired immunodeficiency syndrome related complex including, at a minimum, information regarding treatment, transmission, and protective measures.

(4) If the victim or person with whom the defendant engaged in sexual penetration during the course of the crime consents, the court shall provide the person or agency administering the test under subsection (3) with the name, address, and telephone number of the

victim or person with whom the defendant engaged in sexual penetration during the course of the crime. After the defendant is tested as to the presence of HIV or an antibody to HIV, the person or agency administering the test shall immediately provide the test results to the victim or person with whom the defendant engaged in sexual penetration during the course of the crime, and shall refer the victim or other person for appropriate counseling.

(5) The test results and any other medical information obtained from the defendant by the person or agency administering the test under subsection (3) shall be transmitted to the court and, after the defendant is sentenced, made part of the court record, but are confidential and shall be disclosed only to the defendant, the local health department, the department, the victim, or other person required to be informed of the results under subsection (4), upon written authorization of the defendant, or except as otherwise provided by law. If the defendant is placed in the custody of the department of corrections, the court shall transmit a copy of the defendant's test results and other medical information to the department of corrections. A person or agency that discloses information in compliance with this subsection shall not be civilly or criminally liable for making the disclosure.

(6) If an individual receives counseling or is tested under this section, and is found to be HIV infected, the individual shall be referred by the agency providing the counseling or testing for appropriate medical care. The department, the local health department, or any other agency providing counseling or testing under this section shall not be financially responsible for medical care received by an individual as a result of a referral made under this subsection.

(7) As used in this section, "sexual penetration" means sexual intercourse, cunnilingus, fellatio, anal intercourse, or any other intrusion, however slight, of any part of a person's body or of any object into the genital or anal openings of another person's body, but emission of semen is not required.

PREVENTION AND CONTROL OF DISEASES

333.5131. Serious communicable diseases or HIV infection, acquired immunodeficiency syndrome or related complex; reports and records, confidentiality; disclosure of Information, partner notification; violations; liability

Sec. 5131. (1) All reports, records, and data pertaining to testing, care, treatment, reporting, research, and information pertaining to partner notification under section 5114a, associated with the serious communicable diseases or infections

of HIV infection, acquired immunodeficiency syndrome, and acquired immunodeficiency syndrome-related complex are confidential. A person shall release reports, records, and data described in this subsection only pursuant to this section.

(2) Except as otherwise provided by law, the test results of a test for HIV infection, acquired immunodeficiency syndrome, or acquired immunodeficiency syndrome-related complex and the fact that such a test was ordered is information that is subject to section 2157 of the revised judicature act of 1961, Act No. 236 of the Public Acts of 1961, being section 600.2157 of the Michigan Compiled Laws.

(3) The disclosure of information pertaining to HIV infection, acquired immunodeficiency syndrome, or acquired immunodeficiency syndrome-related complex in response to a court order and subpoena is limited to only the following cases and is subject to all of the following restrictions:

(a) A court that is petitioned for an order to disclose the information shall determine both of the following:

(i) That other ways of obtaining the information are not available or would not be effective.

(ii) That the public interest and need for the disclosure outweigh the potential for injury to the patient.

(b) If a court issues an order for the disclosure of the information, the order shall do all of the following:

(i) Limit disclosure to those parts of the patient's record that are determined by the court to be essential to fulfill the objective of the order.

(ii) Limit disclosure to those persons whose need for the information is the basis for the order.

(iii) Include such other measures as considered necessary by the court to limit disclosure for the protection of the patient.

(4) A person who releases information pertaining to HIV infection, acquired immunodeficiency syndrome, or acquired immunodeficiency syndrome-related complex to a legislative body shall not identify, in the information a specific individual who was tested or is being treated for HIV infection, acquired immunodeficiency syndrome, or acquired immunodeficiency syndrome-related complex.

(5) Subject to subsection (7), subsection (1) does not apply to the following:

(a) Information pertaining to an individual who is HIV infected or has been diagnosed as having acquired immunodeficiency syndrome or acquired immunodeficiency syndrome-related complex, if the information is disclosed to the department, a local health department, or other health care provider for 1 or more of the following purposes:

(i) To protect the health of an individual.

- (ii) To prevent further transmission of HIV.
- (iii) To diagnose and care for a patient.
- (b) Information pertaining to an individual who is HIV infected or has been diagnosed as having acquired immunodeficiency syndrome or acquired immunodeficiency syndrome-related complex, if the information is disclosed by a physician or local health officer to an individual who is known by the physician or local health officer to be a contact of the individual who is HIV infected or has been diagnosed as having acquired immunodeficiency syndrome or acquired immunodeficiency syndrome-related complex, if the physician or local health officer determines that the disclosure of the information is necessary to prevent a reasonably foreseeable risk of further transmission of HIV. This subdivision imposes an affirmative duty upon a physician or local health officer to disclose information pertaining to an individual who is HIV infected or has been diagnosed as having acquired immunodeficiency syndrome or acquired immunodeficiency syndrome-related complex to an individual who is known by the physician or local health officer to be a contact of the individual who is HIV infected or has been diagnosed as having acquired immunodeficiency syndrome or acquired immunodeficiency syndrome-related complex. A physician or local health officer may discharge the affirmative duty imposed under this subdivision by referring the individual who is HIV infected or has been diagnosed as having acquired immunodeficiency syndrome or acquired immunodeficiency syndrome-related complex to the appropriate local health department for assistance with partner notification under section 5114a. The physician or local health officer shall include as part of the referral the name and, if available, address and telephone number of each individual known by the physician or local health officer to be a contact of the individual who is HIV infected or has been diagnosed as having acquired immunodeficiency syndrome or acquired immunodeficiency syndrome-related complex.
- (c) Information pertaining to an individual who is HIV infected or has been diagnosed as having acquired immunodeficiency syndrome or acquired immunodeficiency syndrome-related complex, if the information is disclosed by an authorized representative of the department or by a local health officer to an employee of a school district, and if the department representative or local health officer determines that the disclosure is necessary to prevent a reasonably foreseeable risk of transmission of HIV to pupils in the school district. An employee of a school district to whom information is disclosed under this subdivision is subject to subsection (1).
- (d) Information pertaining to an individual who is HIV infected or has been diagnosed as having acquired immunodeficiency

syndrome or acquired immunodeficiency syndrome-related complex, if the disclosure is expressly authorized in writing by the individual. This subdivision applies only if the written authorization is specific to HIV infection, acquired immunodeficiency syndrome, or acquired immunodeficiency syndrome-related complex. If the individual is a minor or incapacitated, the written authorization may be executed by the parent or legal guardian Of the individual.

(e) Information disclosed under section 5114, 5114a, 5119(3), 5129, or 20191 or information disclosed as required by rule promulgated under section 5111(1)(b) or (i).

(f) Information pertaining to an individual who is HIV infected or has been diagnosed as having acquired immunodeficiency syndrome or acquired immunodeficiency syndrome-related complex, if the information is part of a report required under the child protection law, Act No. 238 of the Public Acts of 1975, being sections 722.621 to 722.636 of the Michigan Compiled Laws.

(g) Information pertaining to an individual who is HIV infected or has been diagnosed as having acquired immunodeficiency syndrome or acquired immunodeficiency syndrome-related complex, if the information is disclosed by the department of social services, the department of mental health, the probate court, or a child placing agency in order to care for a minor and to place the minor with a child care organization licensed under Act No. 116 of the Public Acts of 1973, being sections 722.111 to 722.128 of the Michigan Compiled Laws. The person disclosing the information shall disclose it only to the director of the child care organization or, if the child care organization is a private home, to the individual who holds the license for the child care organization. An individual to whom information is disclosed under this subdivision is subject to subsection (1). As used in this subdivision, "child care organization" and "child placing agency mean those terms as defined in section 1 of Act No. 116 of the Public Acts of 1973, being section 722.111 of the Michigan Compiled Laws.

(6) A person who releases the results of an HIV test in compliance with subsection (5) is immune from civil or criminal liability and administrative penalties including, but not limited to, licensure sanctions, for the release of that information.

(7) A person who discloses information under subsection (5) shall not include in the disclosure information that identifies the individual to whom the information pertains, unless the identifying information is determined by the person making the disclosure to be reasonably necessary to prevent a foreseeable risk of transmission of HIV. This subsection does not apply to information disclosed under subsections (5)(d), (f), or (g).

(8) A person who violates this section is guilty of a

misdemeanor, punishable by imprisonment for not more than 1 year or a fine of not more than \$5,000.00, or both, and is liable in a civil action for actual damages or \$1,000.00, whichever is greater, and costs and reasonable attorney fees. This subsection also applies to the employer of a person who violates this section, unless the employer had in effect at the time of the violation reasonable precautions designed to prevent the violation.

333.5133. HIV testing; delegating authority, counseling, informed consent, information form, signature, copies of form, anonymous tests, standard protocol, application, notice of positive results

Sec. 5133. (1) Except as otherwise provided in this section, a physician who orders an HIV test or a health facility that performs an HIV test shall provide counseling appropriate to the test subject both before and after the test is administered.

(2) Except as otherwise provided in this part, a physician, or an individual to whom the physician has delegated authority to perform a selected act, task, or function under section 16215, shall not order an HIV test for the purpose of diagnosing HIV infection without first receiving the written, informed consent of the test subject. Subject to subsection (2), for purposes of this subsection, written, informed consent shall consist of a signed writing executed by the subject of a test or the legally authorized representative of the test subject which includes, at a minimum, all of the following:

(a) An explanation of the test including, but not limited to, the purpose of the test, the potential uses and limitations of the test, and the meaning of test results.

(b) An explanation of the rights of the test subject including, but not limited to, all of the following:

(i) The right to withdraw consent to the test at any time before the administration of the test.

(ii) The right under this part to confidentiality of the test results.

(iii) The right under this part to consent to and participate in the test on an anonymous basis.

(c) A description of the person to whom the test results may be disclosed.

(3) Within 120 days after the effective date of this part, a physician or an individual to whom the physician has delegated authority to perform a selected act, task, or function under section 16215 who orders an HIV test shall distribute to the test subject information regarding the HIV test on a form provided by the department. The form shall be developed by the department and shall include all of the following:

- (a)The purpose and nature of the test.
- (b)The consequences of both taking and not taking the test.
- (c)The meaning of the test results.
- (d)Other information considered necessary or relevant by the department.
- (e)A standard consent form for the signed writing required under subsection (1). The standard consent form shall include all of the information required under subsection (2)(a), (b) and (c).
- (4)The form required under subsection (2) shall be made available to physicians through the department, the Michigan board of medicine, and the Michigan board of osteopathic medicine and surgery. The Michigan board of medicine and the Michigan board of osteopathic medicine and surgery shall notify in writing all physicians subject to this section of the requirements of this section and the availability of the form within 100 days after the effective date of this part. Upon request, the Michigan board of medicine and the Michigan board of osteopathic medicine and surgery shall provide copies of the form, free of charge, to a physician who is subject to this section.
- (5) If a test subject is given a copy of the form required under subsection (3), a form, signed by the test subject, indicating that he or she has been given a copy of the form required under subsection (3), shall be included in the test subject's medical record.
- (6)A test subject who executes a signed writing pursuant to subsection (2) shall be barred from subsequently bringing a civil action based on failure to obtain informed consent against the physician who ordered the HIV test.
- (7)The information form required by subsection (2) shall be provided by the department. The department shall develop the form and have the form ready for distribution within 90 days after the effective date of this part. The form shall be written in English and in clear, nontechnical terms. Copies of the form shall also be printed in Spanish. The form shall be distributed, upon request and free of charge, to a physician or other person or a governmental entity that is subject to this section.
- (8)In addition to the forms provided under subsection (7), the department shall provide copies of the form to the Michigan board of medicine and the Michigan board of osteopathic medicine and surgery. The department shall provide copies of the form to other persons upon written request, at cost, and shall also provide copies of the form free of charge, upon request, to public or private schools, colleges, and universities.

(9) An individual who undergoes an HIV test at a department approved testing site may request that the HIV test be performed on an anonymous basis. If an individual requests that the HIV test be performed on an anonymous basis, the HIV test shall be administered anonymously or under the condition that the test subject not be identified, and consent to the test shall be given using a coded system that does not link the individual's identity with the request for the HIV test or the HIV test results. The test results of an HIV test performed under this subsection indicate that the test subject is HIV infected, the staff of the department approved testing site shall proceed with partner notification in the same manner in which a local health department would proceed as described in section 5114a(4)(a) and (b).

(10) Subsection (2) does not apply to an HIV test performed for the purpose of research, if the test is performed in such a manner that the identity of the test subject is not revealed to the researcher and the test results are not made known to the test subject.

(11) A health facility may develop a standard protocol for an HIV test performed upon a patient in the health facility in preparation for an incisive or invasive surgical procedure.

(12) This section does not apply to an HIV test performed upon a patient in a health facility if both of the following conditions are met:

(a) The patient is informed in writing upon admission to the health facility that an HIV test may be performed upon the patient without the written consent required under this section under circumstances described in subdivision (b).

(b) The HIV test is performed after a health professional or other health facility employee sustains a percutaneous, mucous membrane, or open wound exposure to the blood or other body fluids of the patient.

(13) Subsections (2) and (3) do not apply if the test subject is unable to receive or understand, or both, the information required under subsection (3) or to execute the written consent form required under subsection (2), and the legally authorized representative of the test subject is not readily available to receive the information or execute the written consent form for the test subject.

(14) If the results of an HIV test performed as described in subsection (11) or (12) indicate that the patient is HIV infected, the health facility shall inform the patient of the positive test results and provide the patient with appropriate counseling regarding HIV infection, acquired immunodeficiency syndrome, and acquired immunodeficiency syndrome related complex.

Part 52. Hazardous Communicable Diseases

Analysis of Sections

Section

333.5201. Definitions; principles of construction.

333.5203. Warning notices; carriers, health threats.

333.5205. Refusal to comply with warning notice; petition; hearing; orders; commitment; review.

333.5207. Carriers, health threats; temporary detention order; affidavit, hearing, notice, evidence.

333.5209. Prevention and control of communicable diseases; powers.

333.5210. Knowledge of AIDS or HIV infection; sexual penetration, felony; definition.

333.5211 to 333.5269. Repealed.

333.5201. Definitions; principles of construction

Sec. 5201. (1) As used in this part:

(a)"Carrier" means an individual who serves as a potential source of infection and who harbors or who the department reasonably believes to harbor a specific infectious agent or a serious communicable disease or infection, whether or not there is present discernible disease.

(b)"Health threat to others" means that an individual who is a carrier has demonstrated an inability or unwillingness to conduct himself or herself in such a manner as to not place others at risk of exposure to a serious communicable disease or infection. Health threat to others includes, but is not limited to, 1 or more of the following:

(i)Behavior by the carrier that has been demonstrated epidemiologically to transmit, or that evidences a careless disregard for transmission of, a serious communicable disease or infection to others.

(ii) A substantial likelihood that the carrier will transmit a serious communicable disease or infection to others, as evidenced by the carrier's past behavior or statements made by

the carrier that are credible indicators of the carrier's intention to do so.

(iii) Affirmative misrepresentation by the carrier of his or her status as a carrier before engaging in behavior that has been demonstrated epidemiologically to transmit the serious communicable disease or infection.

(2) In addition, article 1 contains general definitions and principles of construction applicable to all articles in this code and part 51 contains definitions applicable to this part.

333.5203. Warning notices; carriers, health threats

Sec. 5203. (1) Upon a determination by a department representative or a local health officer that an individual is a carrier and is a health threat to others, the department representative or local health officer shall issue a warning notice to the individual requiring the individual to cooperate with the department or local health department in efforts to prevent or control transmission of serious communicable diseases or infections. The warning notice may also require the individual to participate in education, counseling, or treatment programs, and to undergo medical tests to verify the person's status as a carrier.

(2) A warning notice issued under subsection (1) shall be in writing, except that in urgent circumstances, the warning notice may be an oral statement, followed by a written statement within 3 days. A warning notice shall be individual and specific and shall not be issued to a class of persons. A written warning notice shall be served either by registered mail, return receipt requested, or personally by an individual who is employed by, or under contract to, the department or a local health department.

(3) A warning notice issued under subsection (1) shall include a statement that unless the individual takes the action requested in the warning notice, the department representative or local health officer shall seek an order from the probate court, pursuant to this part. The warning notice shall also state that, except in cases of emergency, the individual to whom the warning notice is issued has the right to notice and a hearing and other rights provided in this part before the probate court issues an order.

333.5205. Refusal to comply with warning notice; petition; hearing; orders; commitment; review

Sec. 5205. (1) If a department representative or a local health officer knows or has reasonable grounds to believe that an individual has failed or refused to comply with a warning notice issued under section 5203,¹ the department or local health department may petition the probate court for the county of Ingham or for the county served by the local health department for an order as described in subsection (3).

(2) A petition filed under subsection (1) shall state all of the following:

(a) The grounds and underlying facts that demonstrate that the individual is a health threat to others and, unless an emergency order is sought under section 5207,² has failed or refused to comply with a warning notice issued under section 5203.

(b) The petitioner's effort to alleviate the health threat to others before the issuance of the warning notice, unless an emergency order is sought under section 5207.

(c) The type of relief sought.

(d) A request for a court hearing on the allegations set forth in the petition.

(3) Upon receipt of a petition filed under subsection (1), the probate court shall fix a date for hearing that shall be as soon as possible, but not later than 14 days after the date the petition is filed. Notice of the petition and the time and place of the hearing shall be served personally on the individual and the petitioner not less than 3 days before the date of the hearing. Notice of the hearing shall include notice of the individual's right to appear at the hearing, the right to present and cross-examine witnesses, and the right to counsel as provided in subsection (7). The individual and the petitioner may waive notice of hearing, and upon filing of the waiver in writing, the probate court may hear the petition immediately.

(4) Upon a finding by the probate court that the department or local health department has proven the allegations set forth in the petition by clear and convincing evidence, the probate court may issue 1 or more of the following orders:

(a) An order that the individual participate in a designated education program.

(b) An order that the individual participate in a designated

counseling program.

(c)An order that the individual participate in a designated treatment program.

(d)An order that the individual undergo medically accepted tests to verify the individual's status as a carrier or for diagnosis.

(e)An order that the individual notify or appear before designated health officials for verification of status, testing, or other purposes consistent with monitoring.

(f)An order that the individual cease and desist conduct that constitutes a health threat to others.

(g)An order that the individual live part-time or full-time in a supervised setting for the period and under the conditions set by the probate court.

(h)Subject to subsection (5), an order that the individual be committed to an appropriate facility for the period and under the conditions set by the probate court. A commitment ordered under this subdivision shall not be for more than 6 months, unless the director of the facility, upon motion, shows good cause for continued commitment.

(i)Any other order considered just by the probate court.

(5)The probate court shall not issue an order authorized under subsection (4)(h) unless the probate court first considers the recommendation of a commitment review panel appointed by the probate court under this subsection to review the need for commitment of the individual to a health facility. The commitment review panel shall consist of 3 physicians appointed by the probate court from a list of physicians submitted by the department. Not less than 2 of the physicians shall have training and experience in the diagnosis and treatment of serious communicable diseases and infections. However, upon the motion of the individual who is the subject of the order, the probate court shall appoint as 1 member of the commitment review panel a physician who is selected by the individual. The commitment review panel shall do all of the following:

(a)Review the record of the proceeding.

(b) Interview the individual, or document the reasons why the individual was not interviewed.

(c) Recommend either commitment or an alternative or alternatives to commitment, and document the reasons for the recommendation.

(6) An individual committed to a facility under subsection (4)(h) may appeal to the probate court for a commitment review panel recommendation as to whether or not the patient's commitment should be terminated. Upon the filing of a claim of appeal under this subsection, the probate court shall reconvene the commitment review panel appointed under subsection (5) as soon as practicable, but not more than 14 days after the filing of the claim of appeal. Upon reconvening, the commitment review panel shall do all of the following:

(a) Review the appeal and any other information considered relevant by the commitment review panel.

(b) Interview the individual, or document the reasons why the individual was not interviewed.

(c) Recommend to the probate court either termination or continuation of the commitment, and document the reasons for the recommendation.

(7) Upon receipt of the recommendation of the commitment review panel under subsection (6), the probate court may terminate or continue the commitment.

(8) The cost of implementing an order issued under subsection (4) shall be borne by the individual who is the subject of the order, unless the individual is unable to pay all or a part of the cost, as determined by the probate court. If the probate court determines that the individual is unable to pay all or a part of the cost of implementing the order, then the state shall pay all of the cost or that part of the cost that the individual is unable to pay, upon the certification of the department.

(9) An individual who is the subject of a petition filed under this section or an affidavit filed under section 5207 shall have the right to counsel at all stages of the proceedings. If the individual is unable to pay the cost of counsel, the probate court shall appoint counsel for the individual.

(10) An order issued by the probate court under this section may be appealed to the circuit court. The circuit court shall hear the appeal within 30 days after the date the claim of appeal is filed with the circuit court. However, an order issued by the probate court under this section shall not be stayed pending appeal, unless ordered by the circuit court on motion for good cause.

(11) An individual committed to a facility under this section who leaves the facility before the date designated in the commitment order without the permission of the probate court is guilty of contempt.

333.5207. Carriers, health threats; temporary detention order; affidavit, hearing, notice, evidence

Sec. 5207. (1) To protect the public health in an emergency, upon the filing of an affidavit by a department representative or a local health officer, the probate court may order the department representative, local health officer, or a peace officer to take an individual whom the probate court has reasonable cause to believe is a carrier and is a health threat to others into custody and transport the individual to an appropriate emergency care or treatment facility for observation, examination, testing, diagnosis, or treatment and, if determined necessary by the probate court, temporary detention. If the individual is already institutionalized in a facility, the court may order the facility to temporarily detain the individual. An order issued under this subsection may be issued in an ex parte proceeding upon an affidavit of a department representative or a local health officer. The probate court shall issue an order under this subsection upon a determination that reasonable cause exists to believe that there is a substantial likelihood that the individual is a carrier and a health threat to others. An order under this subsection may be executed on any day and at any time, and shall be served upon the individual who is the subject of the order immediately upon apprehension or detention.

(2) An affidavit filed by a department representative or a local health officer under subsection (1) shall set forth the specific facts upon which the order is sought including, but not limited to, the reasons why an emergency order is sought.

(3) An individual temporarily detained under subsection (1) shall not be detained longer than 72 hours, excluding Saturdays, Sundays, and legal holidays, without a court hearing to determine if the temporary detention should continue.

(4) Notice of a hearing under subsection (3) shall be served

upon the individual not less than 24 hours before the hearing is held. The notice shall contain all of the following information:

(a)The time, date, and place of the hearing.

(b)The grounds and underlying facts upon which continued detention is sought.

(c)The individual's right to appear at the hearing.

(d)The individual's right to present and cross-examine witnesses.

(e)The individual's right to counsel, including the right to counsel designated by the probate court, as described in section 5205(9).

(5)The probate court may order that the individual continue to be temporarily detained if the court finds, by a preponderance of the evidence, that the individual would pose a health threat to others if released. An order under this subsection to continued temporary detention shall not continue longer than 5 days, unless a petition is filed under section 5205. If a petition is filed under section 5205, the temporary detention shall continue until a hearing on the petition is held under section 5205.

333.5209. Prevention and control of communicable diseases; powers

Sec. 5209. This part does not limit the power of the department, a local health department, or the probate court to deal with the prevention and control of communicable diseases and infections.

333.5210. Knowledge of AIDS or HIV infection; sexual penetration, felony; definition

Sec. 5210. (1) A person who knows that he or she has or has been diagnosed as having acquired immunodeficiency syndrome or acquired immunodeficiency syndrome related complex, or who knows that he or she is HIV infected, and who engages in sexual penetration with another person without having first informed the other person that he or she has acquired immunodeficiency syndrome or acquired immunodeficiency syndrome related complex or is HIV infected, is guilty of a felony.

(2)As used in this section, "sexual penetration" means sexual intercourse, cunnilingus, fellatio, anal intercourse, or any other intrusion, however slight, of any part of a person's body or of any object into the genital or anal openings of another

person's body, but emission of semen is not required.

Part 53. Expense of Care

Analysis of Sections

Section

333.5301. Serious communicable diseases other than AIDS, liability for expenses of care.

333.5303. Domicile of individuals receiving care; determination; disputes.

333.5305. Reimbursement by counties of domicile.

333.5307. Reimbursement by individuals receiving care.

333.5301. Serious communicable diseases other than AIDS, liability for expenses of care

Sec. 530 1. (1) The county in which an individual receiving care under section 5117 has a domicile is chargeable with the expense of the care, and this state shall reimburse that county for all or a portion of the expense in the amounts the legislature appropriates for that purpose. An individual who has tuberculosis and has not acquired a legal settlement in this state in accordance with the social welfare act, Act No. 280 of the Public Acts of 1939, being sections 400.1 to 400.121 of the Michigan Compiled Laws, or an individual who was honorably discharged from a branch of the military services of the United States and not otherwise hospitalized for the purpose of this part shall be considered to be domiciled in this state at large, and the expense of that individual's care, while the care continues with the approval of the department, shall be paid by the state on certification of the department. The reasonableness and propriety of all claims and accounts under this subsection shall be passed upon and determined by the department, subject to appeal to the circuit court for the county of Ingham as to questions of law.

(2) An individual committed to an inpatient facility for tuberculosis pursuant to a probate court order under section 5205 2 and not otherwise hospitalized for the purpose of part 51 or 52 shall be considered to be domiciled in this state at large, and the expense of that individual's care, while the care continues with the approval of the department, shall be paid by the state on certification of the department. The reasonableness and propriety of all claims and accounts under this subsection shall be passed upon and determined by the department, subject to appeal to the circuit court for the county of Ingham as to questions of law.

333.5303. Domicile of Individuals receiving care; determination;

disputes

Sec. 5303. (1) Upon determination by the county department of social services that the place of domicile of an individual receiving care under section 5117 is in another county in this state, care shall be provided where the individual is found at the expense of the county where the individual is domiciled. The county department of social services, not later than 1 month after the commencement of care, shall mail written notice that the care is being provided to the local department of social services of the individual's county of domicile. The local health department of the county of domicile may provide for the return of the individual to, and care in, that county.

(2) If the domicile of the individual is not acknowledged by the alleged county of domicile within 1 month after mailing the notice under subsection (1), the question of domicile may be submitted for decision to the state department of social services. If a disputed or contested claim arises between 2 or more counties as to the county of domicile, the director of social services shall determine the county of domicile when so requested or on his or her own motion. The decision of the director of social services is final. However, pending determination, the county in which the individual is found shall provide the necessary care.

333.5305. Reimbursement by counties of domicile

Sec. 5305. Upon determination by the director of social services that the county where the individual is found is not the county of domicile, the county of domicile, as determined by the director of social services, shall reimburse the county where the individual is found for all expenses incurred, less any reimbursements from the state or other source for the care.

333.5307. Reimbursement by individuals receiving care

Sec. 5307. An expenditure of public funds under section 51171 for the care of an individual is considered an expenditure for the protection of the public health, and not money advanced as welfare or relief. An individual is not legally obligated to reimburse the expense incurred, unless the department and the county of domicile, after reasonable notice and upon a hearing, find that the individual hospitalized or treated, or the persons legally liable for the individual's support, are possessed of sufficient income or estate to enable them to make the reimbursement in whole or in part without materially affecting their reasonable economic security or support, in view of their respective resources, obligations, and responsibilities to dependents and order reimbursement. The order shall not be made

retroactive unless the department and the county of domicile find that the person to be charged is guilty of misrepresenting or withholding knowledge of facts material to the issue. Receipts under the order, and money voluntarily paid as reimbursement, shall be distributed pro rata to the funds out of which the expenditure was made.

Part 59. Michigan Health Initiative Program.

Analysis of Sections

Section

333.5901. Definitions

333.5905. Commission membership, terms, officers, compensation.

333.5907. Public meetings; availability of information.

333.5909. Commission duties.

333.5911. Health initiative fund.

333.5913. Health initiative information clearinghouse; establishment, information available.

333.5915. Media campaign production; information presented.

333.5917. Risk reduction and AIDS education module for elementary and secondary pupils.

333.5919. Risk reduction and AIDS information package; contents.

333.5921. Annual model AIDS information package, contents; local health departments' AIDS information packages.

333.5923. HIV testing.

333.5925. Employee wellness programs; grants, funding applications, rules.

333.5927. Educational programs for health care workers.

333.5929. Local community demonstration and pilot projects.

333.5901. Definitions

Sec. 5901. As used in this part:

(a) "AIDS" means acquired immunodeficiency syndrome.

(b) "Commission" means the risk reduction and AIDS policy commission created in section 5903.

(c) "Fund" means the Michigan health initiative fund created in section 5911.

(d) "HIV" means human immunodeficiency virus.

(e) "Institute of higher education" means a public or private college or university. Institute of higher education includes a community college.

(f) "Risk reduction" means the process of identifying and reducing or eliminating behaviors or conditions, or both, that are harmful to physical or mental health, or both.

333.5903. Risk reduction and AIDS policy commission; creation

Sec. 5903. The risk reduction and AIDS policy commission is

created in the department. The commission shall be appointed by the governor, pursuant to section 5905, by October 1, 1988.

333.5905. Commission membership, terms, officers, compensation
Sec. 5905. (1) The commission shall consist of 11 members appointed by the governor with the advice and consent of the senate, including the director and his or her designee as an ex officio member, 1 member from an association representing local public health, and 9 members appointed from the following categories:

- (a) Business and industry.
 - (b) Labor.
 - (c) Health care providers.
 - (d) The legal community.
 - (e) Religious organizations.
 - (f) State and local government, including, but not limited to, the chronic disease advisory committee created under part 54.
 - (g) The education community.
- (2) A health care provider member appointed pursuant to subsection (1) shall not be an employee of a state executive department or local health department, nor represent a facility or agency which is owned or operated by a state executive department or a local health department.
- (3) To the extent practicable, the members appointed pursuant to subsection (1), except the director, shall be representative of the demographic composition and geographic regions of this state.
- (4) The term of each member, other than the director, shall be 3 years, except that of the members first appointed, 4 shall serve for 3 years, 3 shall serve for 2 years, and 3 shall serve for 1 year. A member shall not serve more than 2 consecutive terms, whether partial or full. A vacancy on the commission shall be filled for the balance of the unexpired term in the same manner as the original appointment.
- (5) The commission biannually shall elect a chairperson and other officers and committees as considered appropriate by the commission.
- (6) The actual and necessary per diem compensation and the schedule for reimbursement of expenses for the public members of the commission shall be the same as is established annually by the legislature for similar boards or commissions that are reimbursed from the general fund.

333.5907. Public meetings; availability of information
Sec. 5907. (1) The business which the commission performs shall be conducted at a public meeting of the commission held in compliance with the open meetings act, Act No. 267 of the Public Acts of 1976, being sections 15.261 to 15.275 of the Michigan

Compiled Laws. Public notice of the time, date, and place of the meeting shall be given in the manner required by Act No. 267 of the Public Acts of 1976.

A writing prepared, owned, used, in the possession of, or retained by the commission in the performance of an official function shall be made available to the public in compliance with the freedom of information act, Act No. 442 of the Public Acts of 1976, being sections 15.231 to 15.246 of the Michigan Compiled Laws.

333.5909. Commission duties

Sec. 5909. (1) The commission shall do all of the following:

- (a) Meet not less than quarterly at the call of the chairperson.
 - (b) Advise the governor and the legislature on policies regarding risk reduction and AIDS.
 - (c) Annually report to the governor and the legislature on major risk factors and preventable diseases or conditions including, but not limited to, AIDS.
 - (d) Make recommendations to the department regarding the allocation of money from the Michigan health initiative fund including, but not limited to, the level of funding for grants under section 5925.
 - (e) Review and comment to the department on topics determined by the commission to be appropriate for the media campaign conducted under this part.
- (2) The commission may appoint advisory committees as considered necessary by the commission. The membership of an advisory committee may include individuals who are afflicted by a particular disease or condition and individuals who have training and expertise in a particular major risk factor, disease, or condition. Members of an advisory committee appointed under this subsection shall not be compensated for their services, but may be reimbursed for actual and necessary expenses incurred in the performance of their duties.

333.5911. Health initiative fund

Sec. 5911. (1) The Michigan health initiative fund is created in the state treasury and shall be administered by the department. The fund shall be expended only as provided in this part. The fund is in addition to, and is not intended as a replacement for, any other money appropriated to the department.

(2) The state treasurer shall credit to the fund all amounts appropriated for that purpose under section 11 of the Michigan health initiative revenue act, section 25 of the general sales tax act, Act No. 167 of the Public Acts of 1933, being section 205.75 of the Michigan Compiled Laws, and section 21 of the use

tax act, Act No. 94 of the Public Acts of 1937, being section 205.111 of the Michigan Compiled Laws.

(3) The state treasurer shall direct the investment of the fund. Earnings shall be credited to the fund.

(4) The unencumbered balance remaining in the fund at the close of the fiscal year shall remain in the fund, and shall not revert to the general fund.

333.5913. Health initiative information clearinghouse; establishment, information available

913. (1) The department shall utilize the fund to establish the Michigan health initiative information clearinghouse, which shall be accessible to the public statewide.

(2) The Michigan health initiative information clearinghouse shall, at a minimum, maintain and provide up-to-date information on both of the following:

(a) Major risk factors and preventable diseases and conditions including, but not limited to, AIDS.

(b) Risk reduction service providers and AIDS treatment programs throughout the state.

333.5915. Media campaign production; information presented
Sec. 5915. (1) The department shall utilize the fund to produce or arrange for the production of a media campaign to disseminate information on risk reduction and major risk factors and preventable diseases and conditions including, but not limited to, AIDS, pursuant to the advice of the commission as provided under section 5909.

In addition to the requirements of subsection (1), the department shall utilize the fund to produce or arrange for the production of public service announcements regarding risk reduction and AIDS which shall be distributed to publicly supported radio and television stations and to cable television studios, and which may be distributed to commercial radio and television stations.

333.5917. Risk reduction and AIDS education module for elementary and secondary pupils

Sec. 5917. (1) The department shall utilize the fund, in cooperation with the state board of education, to develop and distribute a risk reduction and AIDS education module appropriate for pupils in elementary and secondary.

(2) The department shall make the risk reduction and AIDS education module available to each school district in the state.

(3) In addition to developing a module as described in subsection (1), the department, in cooperation with the state board of education, may develop a process for approving a risk

reduction and AIDS education module developed by a school district.

333.5919. Risk reduction and AIDS information package; contents
Sec. 5919. The department shall utilize the fund to develop, in cooperation with institutions of higher education, a risk reduction and AIDS information package that shall include, but not be limited to, information regarding testing, counseling, transmission, prevention, and treatment.

333.5921. Annual model AIDS information package, contents; local health departments' AIDS information packages
Sec. 5921. (1) The department shall utilize the fund to develop annually a model AIDS information package which shall include, but not be limited to, information regarding the status of AIDS in this state, state supported testing and counseling programs, research findings, and access to the Michigan health initiative information clearinghouse established under section 5913.
(2) A local health department or a consortium of local health departments may apply to the department for funding to develop a local AIDS information package which may be used as an alternative to the state model developed under subsection (1). If the department provides funding under this subsection, the department shall approve the alternative AIDS information package before it is used by the local health department.
(3) The model AIDS information package developed under subsection (1) may be distributed to each residence in the state, except that the model AIDS information package need not be distributed to a residence to which an alternative AIDS information package developed and approved under subsection (2) has been distributed.

333.5923. HIV testing
Sec. 5923. (1) The department shall utilize the fund to provide HIV testing free of charge to all residents of this state and all nonresident students enrolled in and attending a public or private college, university, or other postsecondary educational institution in this state. All HIV testing under this section shall be performed by the department or a licensed clinical laboratory designated by the department.
(2) As a condition of receiving an HIV test under this section, the department shall require an individual who requests an HIV test to undergo counseling both before and after the HIV test. The counseling may be provided by local health department personnel or an individual designated by the local health department who has undergone training approved by the department. The counseling shall be conducted pursuant to protocols approved

by the department. If the counseling required under this subsection is provided by a local health department or an individual designated by the local health department, the cost of the counseling shall be paid by the local health department out of the distribution of funds made under section 5(c) of the health and safety fund act.1 If a distribution of funds is not made under section 5(c) of the health and safety fund act, the cost of counseling provided under this subsection by a local health department or an individual designated by the local health department shall be paid by the department.

(3) A person who provides HIV testing or counseling under this section shall be reimbursed for the cost of the HIV testing or counseling only by the department or a local health department, and shall not bill the individual receiving the services or any other person including, but not limited to, a third party payer.

333.5925. Employee wellness programs; grants, funding applications, rules

Sec. 5925. (1) The department shall utilize the fund to provide grants for employee wellness programs which reduce the prevalence of high risk factors for employees. Programs funded under this section may provide services to employees, dependents of employees, and to retired employees.

(2) The department shall accept applications for funding from any employer or employee organization in the state. The department shall give special consideration to programs which address more than 1 high risk factor and which are to be conducted by more than 1 employer or employee organization.

(3) The department shall promulgate rules to implement this section. The rules promulgated under this subsection shall be submitted for public hearing under the administrative procedures act of 1969 within 60 days after the effective date of this part.

333.5927. Educational programs for health care workers

Sec. 5927. The department shall utilize the fund to develop educational programs for health care workers, whether licensed or not, regarding the delivery of quality care and protection against exposure to disease in the workplace.

333.5929. Local community demonstration and pilot projects

Sec. 5929. The department shall utilize the fund to provide grants for local community demonstration and pilot projects that provide a network of care to AIDS patients in a nonacute care setting. The department shall give special consideration to applicants with projects designed to provide care on a regional basis.

333.9123. HIV testing of human blood, tissues, organs, or other specimens used for transplant, transfusion, or injection; application; insufficient time, informed consent; positive results; violations

Sec. 9123. (1) Except as otherwise provided in subsection (2), a person, including, but not limited to, a licensee under article 15 or article 17' who procures or collects blood or human tissues, organs, or other specimens for purposes of transplantation, transfusion, introduction, or injection into a human body shall test or provide for the testing of each potential donor or each sample or specimen of blood or tissue, or each organ or other human specimen for the presence in the donor, sample, specimen, or organ of HIV or an antibody to HIV.

(2) Subsection (1) does not apply if a test for HIV or an antibody to HIV cannot be performed in the time during which the blood, tissue, organ, or other human specimen is viable for purposes of transplantation, transfusion, introduction, or injection into a human body, due to emergency or other exigent circumstances.

(3) Except as otherwise provided in subsection (4), if the results of a test performed under subsection (1) are positive, the blood, tissue, organ, or other human specimen shall not be used for purposes of transplantation, transfusion, introduction, or injection into a human body. If a test for HIV or an antibody to HIV cannot be performed in the time during which the blood, tissue, organ, or other human specimen is viable for purposes of transplantation, transfusion, introduction, or injection into a human body, due to emergency or other exigent circumstances, then the blood, tissue, organ, or other human specimen may be used for purposes of transplantation, transfusion, introduction, or injection into a human body if the person responsible for the transplantation, transfusion, introduction, or injection and the person who intends to receive the blood, tissue, organ, or other human specimen have been informed that there was insufficient time to perform a test for HIV or an antibody to HIV, and have agreed in writing to the use of the blood, tissue, organ, or other human specimen. If the person who intends to receive the blood, tissue, organ, or other human specimen is a minor, then the parent, legal guardian, or person in loco parentis of the minor shall have been informed that there was insufficient time to perform a test for HIV or an antibody to HIV and shall have agreed in writing to the use of the blood, tissue, organ, or other human specimen. If the person who intends to receive the blood, tissue, organ, or other human specimen is otherwise unable to give informed consent, then any of the following persons, in order of priority stated, when persons in prior classes are not available at the time the transplantation, transfusion,

introduction, or injection is to be performed, shall have been informed that there was insufficient time to perform a test for HIV or an antibody to HIV and shall have agreed in writing to the use of the blood, tissue, organ, or other human specimen:

- (i) The spouse.
 - (ii) An adult son or daughter.
 - (iii) Either parent.
 - (iv) An adult brother or sister.
 - (v) A guardian of the person at the time the transplantation, transfusion, introduction, or injection is to be performed.
- (4) If a person donates blood exclusively for his or her own transfusion needs, and if the results of a test performed under subsection (1) are positive, the person may use the blood for that purpose if both the person responsible for the transfusion and the person who intends to receive the blood have been informed of the positive test result and have consented in writing to the use of the blood.
- (5) A person, including, but not limited to, a licensee under article 15 or article 17, who procures or collects self-replicating body fluids for purposes of introduction into a human body shall test each potential donor, and, if the donor donates on a regular basis, not less than every 3 months, for the presence in the donor of HIV or an antibody to HIV. If at any time the test results are positive, the self-replicating body fluids of the donor shall not be used for introduction into a human body.
- (6) A person, including, but not limited to, a licensee under article 15 or article 17 who orders or performs, or both, a test for HIV or an antibody to HIV under this section shall, if the test result is positive, inform the donor of the positive test result. For purposes of this subsection, a positive test result is a double positive enzyme-linked immunosorbent assay test, combined with a positive western blot assay test, or a positive result under an HIV test that is considered reliable by the federal centers for disease control and is approved by the department.
- (7) A person who violates this section shall be liable in a civil action for damages for the loss or damage resulting from the violation.
- (8) As used in this section:
- (a) "Blood" includes whole blood, blood plasma, blood products, and blood derivatives.
 - (b) "HIV" means human immunodeficiency virus.
 - (c) "Self-replicating body fluids" means bodily fluids that are reproduced by the body including, but not limited to, breast milk. Self-replicating body fluids does not include blood or sperm.

333.11101. Donation or sale of blood or blood products;
knowledge of positive HIV test

Sec. 11101. An individual shall not donate or sell his or her blood or blood products to a blood bank or storage facility or to an agency or organization that collects blood or blood products for a blood bank or storage facility knowing that he or she has tested positive for the presence of HIV or an antibody to HIV. A blood bank or other health facility to which blood or blood products is donated in violation of this section immediately shall notify the local health department of the violation. The local health facility will immediately proceed under part 52.

333.16267. Test results showing HIV infection; compliance with reporting requirements

Sec. 16267. (1) A licensee who obtains from a test subject a test result that indicates that the test subject is HIV infected shall comply with the reporting requirements of section 5114.

(2) As used in this section:

(a) "HIV" means human immunodeficiency virus.

(b) "HIV infected" means that term as defined in section 5101.2

333.16273. Artificial insemination services on an anonymous basis; frozen sperm, HIV tests, civil liability, definitions

Sec. 16273. (1) A licensee, except a veterinarian licensed under this article, who provides artificial insemination services on an anonymous basis shall use only frozen sperm, and shall test each potential sperm donor for the presence in the donor of HIV or an antibody to HIV. The donated sperm shall be frozen, stored, and quarantined for not less than 6 months. Before frozen sperm is used for artificial insemination, and not less than 6 months after the date of the donation, the licensee shall take a second blood sample from the donor and have that blood sample tested for HIV or an antibody to HIV. If at any time the test results are positive, the licensee shall not use the sperm of the donor for artificial insemination purposes.

(2) A licensee who violates this section shall be liable in a civil action for damages for the loss or damage resulting from the violation.

(3) As used in this section:

(a) "Anonymous basis" means that the recipient of the sperm does not know the identity of the donor, but the licensee who provides the artificial insemination services or collects the sperm from the donor does know the identity of the donor.

(b) "HIV" means human immunodeficiency virus.

333.16291. Violations; remedies; prosecution

Sec. 16291. (1) Upon a violation of this article or of a rule or order of a board or the department, the circuit court for the county in which the violation occurs may restrain and enjoin a person from the violation.

A board or department shall seek injunctive relief through the attorney general or the prosecuting attorney of the county in which the violation occurs. This proceeding may be in addition to and is not in lieu of a criminal prosecution or proceeding as to a license or registration.

(2) The department or a board, or both, may request the attorney general or prosecuting attorney to prosecute a person violating this article. The attorney general or the prosecuting attorney may prosecute a violation of this article.

333.20179. Artificial Insemination services on an anonymous basis; frozen sperm, HIV tests, civil liability, definitions

Sec. 20179. (1) A health facility or agency licensed under this article that provides artificial insemination services on an anonymous basis shall use only frozen sperm, and shall test each potential sperm donor for the presence in the donor of HIV or an antibody to HIV. The donated sperm shall be frozen, stored, and quarantined for not less than 6 months. Before frozen sperm is used for artificial insemination, and not less than 6 months after the date of the donation, the health facility or agency shall take a second blood sample from the donor and have that blood sample tested for HIV or an antibody to HIV. If at any time the test results are positive, the health facility or agency licensed under this article shall not use the sperm of the donor for artificial insemination purposes.

(2) A health facility or agency licensed under this article that violates this section shall be liable in a civil action for damages for the loss or damage resulting from the violation.

(3) As used in this section:

(a) "Anonymous basis" means that the recipient of the sperm does not know the identity of the donor, but the health facility or agency licensed under this article that provides the artificial insemination services or collects the sperm from the donor does know the identity of the donor.

(b) "HIV" means human immunodeficiency virus.

333.20191. Emergency patients, positive tests for infectious agents; notice, form, information, rules; disclosure, violation; definitions

Sec. 20191. (1) If an emergency patient is assisted or transported, or both, to a health facility by a police officer; fire fighter; medical first responder, emergency medical technician, emergency medical technician specialist, or paramedic

licensed under section 30950; or another individual, and if the emergency patient, as part of the treatment rendered by the health facility, is tested for the presence in the emergency patient of an infectious agent, and the test results are positive, the health facility shall do all of the following:

(a) Subject to subsection (2) and subdivision (b), if the test results are positive for an infectious agent and the individual meets 1 of the following requirements, notify the individual on a form provided by the department that he or she may have been exposed to an infectious agent:

(i) The individual is a police officer, fire fighter, or individual licensed under section 20950.2

(ii) The individual demonstrates in writing to the health facility that he or she was exposed to the blood, body fluids, or airborne agents of the emergency patient or participated in providing treatment to the emergency patient or transportation of the emergency patient to the health facility.

(b) Subject to subsection (2), if the test results are positive for HIV, the health facility shall not reveal that the infectious agent is HIV unless the health facility has received a written request for notification from an individual described in subdivision (a)(i) or (ii).

(c) Subject to subsection (2), on a form provided by the department, notify the individual described in subdivision (a), at a minimum, of the appropriate infection control precautions to be taken and the approximate date of the potential exposure.

(2) The notification required under subsection (1) shall occur within 2 days after the test results are obtained by the health facility or after receipt of a written request under subsection (1)(b). The notification shall be transmitted to the potentially exposed individual as follows:

(a) If the potentially exposed individual provides his or her name and address to the health facility or if the health facility has a procedure that allows the health facility in the ordinary course of its business to determine the individual's name and address, the health facility shall notify the individual directly at that address.

(b) If the potentially exposed individual is a police officer, fire fighter, or individual licensed under section 20950, and if the health facility does not have the name of the potentially exposed individual, the health facility shall notify the appropriate police department, fire department, or life support agency that employs or dispatches the individual. If the health facility is unable to determine the employer of an individual described in this subdivision, the health facility shall notify the medical control authority or chief elected official of the governmental unit that has jurisdiction over the

transporting vehicle.

(c) A medical control authority or chief elected official described in subdivision (b) shall notify the potentially exposed individual or, if unable to notify the potentially exposed individual, shall document in writing the notification efforts and reasons for being unable to make the notification.

(3) The notice required under subsection (1) shall not contain information which would identify the emergency patient who tested positive for an infectious agent. The information contained in the notice is confidential and is subject to this section, the rules promulgated under section 5111(2), and section 5131.

A person who receives confidential information under this section shall disclose the information to others only to the extent consistent with the authorized purpose for which the information was obtained.

(4) The department may promulgate rules to administer this section.

(5) A person who discloses information regarding an infectious agent that is not a serious communicable disease or infection or HIV in violation of subsection (3) is guilty of a misdemeanor.

(6) A person or governmental entity authorized or required to make a notification under subsection (1) that complies in good faith with this section is immune from any civil liability or criminal penalty for making a notification required under subsection (1).

(7) As used in this section:

(a) "Emergency patient" means an individual who is transported to an organized emergency department located in and operated by a hospital licensed under this article or a facility other than a hospital that is routinely available for the general care of medical patients.

(b) "Health facility" means a health facility or agency as defined in section 20106.

(c) "HIV" means human immunodeficiency virus.

(d) "HIV infected" means that term as defined in section 5101.

(e) "Infectious agent" means that term as defined in R 325.9031 of the Michigan administrative code.

(f) "Life support agency" means that term as defined in section 20906.6

(g) "Serious communicable disease or infection" means that term as defined in section 5101.

711.267. Temporary confinement, prisoner study, report by warden; HIV tests; Positive result, procedures

(2) Immediately upon arrival at a reception center designated pursuant to subsection (1), each incoming prisoner shall undergo a test for HIV or an antibody to HIV. This subsection shall not apply if an incoming prisoner has been tested for HIV or an antibody to HIV under section 5129 of the public health code. Act No. 368 of the Public Acts of 1978, being section 833.5129 of the Michigan Compiled Laws, within the 3 months immediately preceding the date of the prisoner's arrival at the reception center, as indicated by the record transferred to the department by the court under that section.

(3) If a prisoner receives a positive test result, and is subsequently subject to discipline by the department for sexual misconduct that could transmit HIV, illegal intravenous use of controlled substances, or assaultive or predatory behavior that could transmit HIV, the department shall house that prisoner in administrative segregation, an inpatient health care unit, or a unit separate from the general prisoner population, as determined by the department.

(4) The department shall report each positive test result to the department of public health.

(5) If an employee of the department is exposed to the blood or body fluid of a prisoner by that prisoner in a manner that could transmit HIV, the prisoner shall be tested for HIV or an antibody to HIV. If the prisoner refuses to undergo the test, he or she shall be considered by the department to be HIV positive.

(6) Upon the request of an employee of the department, the department shall provide or arrange for a test for HIV or an antibody to HIV for that employee, free of charge.

(7) Upon the request of an employee of the department, the department shall provide to that employee the equipment necessary to implement universal precautions to prevent transmission of HIV infection.

(8) A prisoner who receives a positive HIV test result or who is considered by the department to be HIV positive pursuant to this section shall not work in a health facility operated by the department.

(9) The department shall conduct a seroprevalence study of the prisoners in all state correctional facilities to determine the percentage of prisoners who are HIV infected.

(10) The results of a test for HIV or an antibody to HIV conducted under this section shall be disclosed by the department only to persons who demonstrate to the department a need to know the test results and as otherwise provided in subsection 4.

(11) The deputy director in charge of the bureau of correctional facilities shall take steps to ensure that a prisoners who receive HIV testing receive counseling regarding

acquired immunodeficiency syndrome and acquired immunodeficiency syndrome related complex, including, at a minimum, treatment, transmission, and protective measures.

(12) The department, in conjunction with the department of public health, shall develop and implement a comprehensive AIDS education program designed specifically for correctional environments. The program shall be conducted by the bureau within the department responsible for health care, for staff and for prisoners at each state correctional facility.

(13) Two years after the effective date of the amendatory act that added this subsection, the department shall submit a report regarding the testing component, managerial aspects, and effectiveness of subsections (2) to (12) to the senate and house committees with jurisdiction over matters pertaining to corrections, and to the senate and house committees with jurisdiction over matters pertaining to public health.

(14) As used in this section:

(a) "AIDS" means acquired immunodeficiency syndrome.

(b) "HIV" means human immunodeficiency virus.

(c) "Positive test result" means a double positive enzyme-linked immunosorbant assay test, combined with a positive western blot assay test, or a positive test under an HIV test that is considered reliable by the federal centers for disease control and is approved by the department of public health.