

# Montana

## Introduction and Table of Contents

May 1, 2009

To the Reader:

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

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

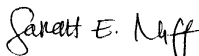
We update the *Compendium* periodically, but it is beyond the scope of the project to perform ongoing verification of every section frequently. We encourage readers to send comments, corrections, and updates (with citations when possible) to Sarah Neff at [neffs@nccc.ucsf.edu](mailto:neffs@nccc.ucsf.edu).

Thank you,



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Director

&



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

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## Definitions and Helpful Resources

May 1, 2009

### Definitions Commonly Used Nationally

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

### Helpful Resources

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

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

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

**For questions or comments about the compendium, contact NCCC:** [NCCCTemp@nccc.ucsf.edu](mailto:NCCCTemp@nccc.ucsf.edu)

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

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

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

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

# Montana

## A Quick Reference Guide for Clinicians to Montana HIV Testing Laws

May 1, 2009

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

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

### Informed Consent

- Consent must be incorporated into the patient’s general informed consent for medical care; may be oral or in writing with documentation of declination in the medical record.

### Counseling

- Pre-test information to ensure the patient’s knowledge and understanding that HIV diagnostic testing is planned and that testing is voluntary

### Provisos of Testing

- **Anonymous**
  - No provisions were regarding anonymous testing were found
- **Rapid**
  - Rapid testing shall be offered to women in labor if their status is unknown/undocumented
- **Routine**
  - HIV screening is routine.

### Disclosure

- Notification to sexual and needle-sharing partners of possible exposure to HIV is encouraged but not required.

### Minor/Adolescent Testing

- Emancipated minors may consent to STD testing and treatment, HIV explicitly included.

# Montana

## *Perinatal Quick Reference Guide:*

### **A Guide to Montana Perinatal HIV Testing Laws for Clinicians**

May 1, 2009

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

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

#### **Prenatal**

- Prenatal HIV screening is routine and must be incorporated into the general informed consent for medical care.
- Patient must be informed orally or in writing that the test will be performed and declination must be documented in the medical record.
- **Third trimester**
  - Physicians and other health care providers may offer HIV test in the third trimester to women not tested earlier in the pregnancy and/or at high-risk.

#### **Labor & Delivery**

- If medically indicated, physicians and other health care providers shall offer a rapid test at labor to women with unknown or undocumented status.
- Physicians and other health care providers shall offer antiretroviral prophylaxis to women with positive rapid or standard test results without waiting for confirmatory test results.

#### **Neonatal**

- No specific provisions regarding neonatal testing were found.

#### **Other**

- N/A

# Montana State Policies Relating to HIV Testing, 2009

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### Montana Code Annotated, 2005 [MCA]

**Title 41: Minors**..... Pages 4-5  
**Title 45: Crimes**..... Pages 6-10  
**Title 46: Criminal Procedure**..... Page 11-12  
**Title 50: Health and Safety**..... Pages 13-20  
**Title 72: Estates, Trusts, and Fiduciary Relationships**..... Page 21

### Administrative Rules of Montana [ARM]

**Title 24: Labor and Industry**..... Page 22  
**Title 37: Public Health and Human Services**..... Pages 23-25

	<b>Policy Category</b>	<b>Type</b>	<b>Section Code(s)</b>	
RESTR.ICTIONS/ MANDATES	Restrictions on use of HIV test	No related laws found		
	Mandatory testing within the criminal justice system	Convicted sex offenders upon request of victim	MCA §46-18-256	
	Mandatory testing outside of the criminal justice system	Occupational exposure – health care workers may request testing of source patient		MCA § 50-16-702
		Blood/organ/tissue donations		MCA §50-16-1008
		Anatomical donations		MCA §50-16-1008 MCA §72-17-207
		Boxers must provide evidence of negative HIV test		ARM 24.117.406
		Employee of school or daycare worker if positive tuberculin test		ARM 37.114.1010
		Persons with reasonable suspicion of infection by health officer		MCA §50-18-107
PRE-TESTING	Mandatory offering of HIV/AIDS information and/or testing	Contacts of HIV positive persons must receive information regarding HIV	ARM 37.114.503	
		Youth in outdoor behavior programs must receive HIV education and prevention	ARM 37.98.1003	
	Informed consent	Patient must be informed orally or in writing that test will be performed – declination of test	MCA §50-16-10 (Section 1)	

		must be documented in medical record	
		HIV screening is routine and must be incorporated into the patient's general informed consent for medical care	MCA §50-16-10 (Section 1)
	Counseling requirements	Pre-test information to ensure patient's knowledge and understanding that HIV diagnostic testing is planned and that testing is voluntary	MCA §50-16-10 (Section 1)
		Counseling must be made available to victims of sexual offenses	MCA §46-18-256
Anonymous testing	No related laws found		
POST-TESTING	Disclosure/confidentiality	HIV records as confidential	MCA §50-16-1009
		Disclosure of HIV status of sex offender to victim	MCA §46-18-256
		Physician to encourage HIV+ patient to notify contacts	MCA §50-16-1009
	Reporting	Name-based reporting	ARM 37.114.201 ARM 37.114.205
		No civil liability for reporting per CDC mandates	MCA §50-16-1013
		Duty of physician to report person with STD known to engage disease-spreading behavior to health officer	MCA §50-18-106
OTHER	Testing of pregnant women and/or newborns	Prenatal HIV screening is routine and must be incorporated into the general informed consent for medical care	MCA §50-16-10 (Section 2)
		Patient must be informed orally or in writing that test will be performed – declination of test must be documented in medical record	MCA §50-16-10 (Section 2)
		Physicians/health care providers may offer test in 3 <sup>rd</sup> trimester to women not tested earlier and women at high-risk	MCA §50-16-10 (Section 2)

	Physicians/health care providers shall, if medically indicated, offer a rapid test at labor to women with unknown/undocumented status and offer ARV prophylaxis if rapid/standard test is positive without confirmatory test results.	MCA §50-16-10 (Section 3)
Testing of minors/adolescents	Emancipated minors may consent to STD services, including HIV testing and treatment	MCA §41-1-402
Rapid HIV testing	Rapid testing to be offered to women in labor if unknown/undocumented status	MCA §50-16-10 (Section 3)
Training and education of health care providers	No related laws found	

### Recommended Resources

#### Montana Constitution and Laws

[http://leg.state.mt.us/css/mtcode\\_const/laws.asp](http://leg.state.mt.us/css/mtcode_const/laws.asp)

#### Administrative Rules of Montana

<http://arm.sos.mt.gov/>

#### Montana Department of Health and Human Services

<http://www.dphhs.state.mt.us/>

<b>Title 41: Minors</b>
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<b>MT Title 41 Code §</b>	<b>Code Language</b>
41-1-401	<p><b>Definitions.</b></p> <p>As used in this part, the following definitions apply:</p> <p>(1) "Emancipated minor" means an individual under 18 years of age who:</p> <ul style="list-style-type: none"> <li>(a) is or has been married;</li> <li>(b) is separated from the individual's parent, parents, or legal guardian and is self-supporting; or</li> <li>(c) has been granted the right to consent to medical treatment pursuant to an order of limited emancipation granted by a court pursuant to <a href="#">41-3-438</a>.</li> </ul> <p>(2) "Health care facility" has the meaning provided in <a href="#">50-5-101</a>.</p> <p>(3) "Health professional" includes only those persons licensed in Montana as physicians, psychiatrists, psychologists, advanced practice registered nurses, dentists, physician assistants, professional counselors, or social workers.</p>
41-1-402	<p><b>Validity of consent of minor for health services.</b></p> <p>(1) This part does not limit the right of an emancipated minor to consent to the provision of health services or to control access to protected health care information under applicable law.</p> <p>(2) The consent to the provision of health services and to control access to protected health care information by a health care facility or to the performance of health services by a health professional may be given by a minor who professes or is found to meet any of the following descriptions:</p> <ul style="list-style-type: none"> <li>(a) a minor who professes to be or to have been married or to have had a child or graduated from high school;</li> <li>(b) a minor who professes to be or is found to be separated from the minor's parent, parents, or legal guardian for whatever reason and is providing self-support by whatever means;</li> <li>(c) a minor who professes or is found to be pregnant or afflicted with any reportable communicable disease, including a sexually transmitted disease, or drug and substance abuse, including alcohol. This self-consent applies only to the prevention, diagnosis, and treatment of those conditions specified in this subsection. The self-consent in the case of pregnancy, a sexually transmitted disease, or drug and substance abuse also obliges the health professional, if the health professional accepts the responsibility for treatment, to counsel the minor or to refer the minor to another health professional for counseling.</li> <li>(d) a minor who needs emergency care, including transfusions, without which the minor's health will be jeopardized. If emergency care is rendered, the parent, parents, or legal guardian must be informed as soon as practical except under the circumstances mentioned in this subsection (2).</li> </ul>

<b>MT Title 41 Code §</b>	<b>Code Language</b>
	<p>(3) A minor who has had a child may give effective consent to health service for the child.</p> <p>(4) A minor may give consent for health care for the minor's spouse if the spouse is unable to give consent by reason of physical or mental incapacity.</p>
41-1-405	<p><b>Emergencies and special situations.</b></p> <p>(1) A health professional may render or attempt to render emergency service or first aid, medical, surgical, dental, or psychiatric treatment, without compensation, to any injured person or any person regardless of age who is in need of immediate health care when, in good faith, the professional believes that the giving of aid is the only alternative to probable death or serious physical or mental damage.</p> <p>(2) A health professional may render nonemergency services to minors for conditions that will endanger the health or life of the minor if services would be delayed by obtaining consent from spouse, parent, parents, or legal guardian.</p> <p>(3) Consent may not be required of a minor who does not possess the mental capacity or who has a physical disability that renders the minor incapable of giving consent and who has no known relatives or legal guardians, if a physician determines that the health service should be given.</p> <p>(4) Self-consent of minors does not apply to sterilization or abortion, except as provided in Title 50, chapter 20, part 2.</p>

<b>Title 45: Crimes</b>
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<b>MT Title 45 Code §</b>	<b>Code Language</b>
45-5-501	<p><b>Definition.</b></p> <p>(1) As used in <a href="#">45-5-503</a>, the term "without consent" means:</p> <ul style="list-style-type: none"> <li>(a) the victim is compelled to submit by force against the victim or another; or</li> <li>(b) the victim is incapable of consent because the victim is: <ul style="list-style-type: none"> <li>(i) mentally defective or incapacitated;</li> <li>(ii) physically helpless;</li> <li>(iii) overcome by deception, coercion, or surprise;</li> <li>(iv) less than 16 years old; or</li> <li>(v) incarcerated in an adult or juvenile correctional, detention, or treatment facility and the perpetrator is an employee, contractor, or volunteer of the facility and has supervisory or disciplinary authority over the victim, unless the act is part of a lawful search.</li> </ul> </li> </ul> <p>(2) As used in subsection (1), the term "force" means:</p> <ul style="list-style-type: none"> <li>(a) the infliction, attempted infliction, or threatened infliction of bodily injury or the commission of a forcible felony by the offender; or</li> <li>(b) the threat of substantial retaliatory action that causes the victim to reasonably believe that the offender has the ability to execute the threat.</li> </ul>
45-5-502	<p><b>Sexual assault.</b></p> <p>(1) A person who knowingly subjects another person to any sexual contact without consent commits the offense of sexual assault.</p> <p>(2) A person convicted of sexual assault shall be fined not to exceed \$500 or be imprisoned in the county jail for a term not to exceed 6 months, or both.</p> <p>(3) If the victim is less than 16 years old and the offender is 3 or more years older than the victim or if the offender inflicts bodily injury upon anyone in the course of committing sexual assault, the offender shall be punished by life imprisonment or by imprisonment in the state prison for a term of not less than 4 years, unless the judge makes a written finding that there is good cause to impose a term of less than 4 years and imposes a term of less than 4 years, or more than 100 years and may be fined not more than \$50,000.</p> <p>(4) An act "in the course of committing sexual assault" includes an attempt to commit the offense or flight after the attempt or commission.</p> <p>(5) Consent is ineffective under this section if:</p> <ul style="list-style-type: none"> <li>(a) the victim is incarcerated in an adult or juvenile correctional, detention, or treatment facility and the perpetrator is an employee, contractor, or volunteer of the facility and has supervisory or disciplinary authority over the victim, unless the act is part of a lawful search; or</li> <li>(b) the victim is less than 14 years old and the offender is 3 or more</li> </ul>

MT Title 45 Code §	Code Language
	years older than the victim.
45-5-503	<p><b>Sexual intercourse without consent.</b></p> <p>(1) A person who knowingly has sexual intercourse without consent with another person commits the offense of sexual intercourse without consent. A person may not be convicted under this section based on the age of the person's spouse, as provided in <a href="#">45-5-501</a>(1)(b)(iv).</p> <p>(2) A person convicted of sexual intercourse without consent shall be punished by life imprisonment or by imprisonment in the state prison for a term of not less than 2 years or more than 100 years and may be fined not more than \$50,000, except as provided in <a href="#">46-18-219</a> and <a href="#">46-18-222</a>.</p> <p>(3) (a) If the victim is less than 16 years old and the offender is 3 or more years older than the victim or if the offender inflicts bodily injury upon anyone in the course of committing sexual intercourse without consent, the offender shall be punished by life imprisonment or by imprisonment in the state prison for a term of not less than 4 years or more than 100 years and may be fined not more than \$50,000, except as provided in <a href="#">46-18-219</a> and <a href="#">46-18-222</a>.</p> <p>(b) If two or more persons are convicted of sexual intercourse without consent with the same victim in an incident in which each offender was present at the location where another offender's offense occurred during a time period in which each offender could have reasonably known of the other's offense, each offender shall be punished by life imprisonment or by imprisonment in the state prison for a term of not less than 5 years or more than 100 years and may be fined not more than \$50,000, except as provided in <a href="#">46-18-219</a> and <a href="#">46-18-222</a>.</p> <p>(c) If the offender was previously convicted of an offense under this section or of an offense under the laws of another state or of the United States that if committed in this state would be an offense under this section and if the offender inflicted serious bodily injury upon a person in the course of committing each offense, the offender shall be:</p> <p>(i) punished by death as provided in <a href="#">46-18-301</a> through <a href="#">46-18-310</a>, unless the offender is less than 18 years of age at the time of the commission of the offense; or</p> <p>(ii) punished as provided in <a href="#">46-18-219</a>.</p> <p>(d) If the victim was incarcerated in an adult or juvenile correctional, detention, or treatment facility at the time of the offense and the offender had supervisory or disciplinary authority over the victim, the offender shall be punished by imprisonment in the state prison for a term of not more than 5 years or fined an amount not to exceed \$50,000, or both.</p> <p>(4) In addition to any sentence imposed under subsection (2) or (3), after determining the financial resources and future ability of the offender to pay restitution as required by <a href="#">46-18-242</a>, the court shall require the offender, if able, to pay the victim's reasonable medical and counseling costs that result from the offense. The amount, method, and time of payment must be determined in the same manner as provided for in <a href="#">46-</a></p>

<b>MT Title 45 Code §</b>	<b>Code Language</b>
	<p><a href="#">18-244.</a></p> <p>(5) As used in subsection (3), an act "in the course of committing sexual intercourse without consent" includes an attempt to commit the offense or flight after the attempt or commission.</p>
45-5-504	<p><b>Indecent exposure.</b></p> <p>(1) A person commits the offense of indecent exposure if the person knowingly or purposely exposes the person's genitals under circumstances in which the person knows the conduct is likely to cause affront or alarm in order to:</p> <ul style="list-style-type: none"> <li>(a) abuse, humiliate, harass, or degrade another; or</li> <li>(b) arouse or gratify the person's own sexual response or desire or the sexual response or desire of any person.</li> </ul> <p>(2) (a) A person convicted of the offense of indecent exposure shall be fined an amount not to exceed \$500 or be imprisoned in the county jail for a term of not more than 6 months, or both.</p> <p>(b) On a second conviction, the person shall be fined an amount not to exceed \$1,000 or be imprisoned in the county jail for a term of not more than 1 year, or both.</p> <p>(c) On a third or subsequent conviction, the person shall be punished by life imprisonment or by imprisonment in a state prison for a term of not less than 5 years or more than 100 years and may be fined not more than \$10,000.</p>
§ 45-5-505	<p><b>Deviate sexual conduct.</b></p> <p>(1) A person who knowingly engages in deviate sexual relations or who causes another to engage in deviate sexual relations commits the offense of deviate sexual conduct.</p> <p>(2) A person convicted of the offense of deviate sexual conduct shall be imprisoned in the state prison for any term not to exceed 10 years or be fined an amount not to exceed \$ 50,000, or both.</p> <p>(3) The fact that a person seeks testing or receives treatment for the HIV-related virus or another sexually transmitted disease may not be used as a basis for a prosecution under this section and is not admissible in evidence in a prosecution under this section.</p>
45-5-507	<p><b>Incest.</b></p> <p>(1) A person commits the offense of incest if the person knowingly marries, cohabits with, has sexual intercourse with, or has sexual contact, as defined in <a href="#">45-2-101</a>, with an ancestor, a descendant, a brother or sister of the whole or half blood, or any stepson or stepdaughter. The relationships referred to in this subsection include blood relationships without regard to legitimacy, relationships of parent and child by</p>

<b>MT Title 45 Code §</b>	<b>Code Language</b>
	<p>adoption, and relationships involving a stepson or stepdaughter.</p> <p>(2) Consent is a defense under this section to incest with or upon a stepson or stepdaughter, but consent is ineffective if the victim is less than 18 years old.</p> <p>(3) A person convicted of incest shall be punished by life imprisonment or by imprisonment in the state prison for a term not to exceed 100 years or be fined an amount not to exceed \$50,000.</p> <p>(4) If the victim is under 16 years of age and the offender is 3 or more years older than the victim or if the offender inflicts bodily injury upon anyone in the course of committing incest, the offender shall be punished by life imprisonment or by imprisonment in the state prison for a term of not less than 4 years or more than 100 years and may be fined not more than \$50,000.</p> <p>(5) In addition to any sentence imposed under subsection (3) or (4), after determining the financial resources and future ability of the offender to pay restitution as required by <a href="#">46-18-242</a>, the court shall require the offender, if able, to pay the victim's reasonable costs of counseling that result from the offense. The amount, method, and time of payment must be determined in the same manner as provided for in <a href="#">46-18-244</a>.</p>
45-5-603	<p><b>Aggravated promotion of prostitution.</b></p> <p>(1) A person commits the offense of aggravated promotion of prostitution if the person purposely or knowingly commits any of the following acts:</p> <ul style="list-style-type: none"> <li>(a) compels another to engage in or promote prostitution;</li> <li>(b) promotes prostitution of a child under the age of 18 years, whether or not the person is aware of the child's age;</li> <li>(c) promotes the prostitution of one's spouse, child, ward, or any person for whose care, protection, or support the person is responsible.</li> </ul> <p>(2) (a) Except as provided in subsection (2)(b), a person convicted of aggravated promotion of prostitution shall be punished by:</p> <ul style="list-style-type: none"> <li>(i) life imprisonment; or</li> <li>(ii) imprisonment in a state prison for a term not to exceed 20 years or a fine in an amount not to exceed \$50,000, or both.</li> </ul> <p>(b) Except as provided in <a href="#">46-18-219</a> and <a href="#">46-18-222</a>, a person convicted of aggravated promotion of prostitution of a child, who at the time of the offense is under 18 years of age, shall be punished by:</p> <ul style="list-style-type: none"> <li>(i) life imprisonment; or</li> <li>(ii) imprisonment in a state prison for a term of not less than 4 years or more than 100 years or a fine in an amount not to exceed \$100,000, or both.</li> </ul>
45-5-625	<p><b>Sexual abuse of children.</b></p> <p>(1) A person commits the offense of sexual abuse of children if the</p>

MT Title 45 Code §	Code Language
	<p>person:</p> <p>(a) knowingly employs, uses, or permits the employment or use of a child in an exhibition of sexual conduct, actual or simulated;</p> <p>(b) knowingly photographs, films, videotapes, develops or duplicates the photographs, films, or videotapes, or records a child engaging in sexual conduct, actual or simulated;</p> <p>(c) knowingly, by any means of communication, including electronic communication as defined in <a href="#">45-8-213</a>, persuades, entices, counsels, or procures a child under 16 years of age or a person the offender believes to be a child under 16 years of age to engage in sexual conduct, actual or simulated;</p> <p>(d) knowingly processes, develops, prints, publishes, transports, distributes, sells, exhibits, or advertises any visual or print medium, including a medium by use of electronic communication, as defined in <a href="#">45-8-213</a>, in which a child is engaged in sexual conduct, actual or simulated;</p> <p>(e) knowingly possesses any visual or print medium, including a medium by use of electronic communication, as defined in <a href="#">45-8-213</a>, in which a child is engaged in sexual conduct, actual or simulated;</p> <p>(f) finances any of the activities described in subsections (1)(a) through (1)(d) and (1)(g), knowing that the activity is of the nature described in those subsections; or</p> <p>(g) possesses with intent to sell any visual or print medium, including a medium by use of electronic communication, as defined in <a href="#">45-8-213</a>, in which a child is engaged in sexual conduct, actual or simulated.</p> <p>(2) (a) A person convicted of the offense of sexual abuse of children shall be punished by life imprisonment or by imprisonment in the state prison for a term not to exceed 100 years and may be fined not more than \$10,000.</p> <p>(b) Except as provided in <a href="#">46-18-219</a>, if the victim is under 16 years of age, a person convicted of the offense of sexual abuse of children shall be punished by life imprisonment or by imprisonment in the state prison for a term of not less than 4 years or more than 100 years and may be fined not more than \$10,000.</p> <p>(c) Except as provided in <a href="#">46-18-219</a>, a person convicted of the offense of sexual abuse of children for the possession of material, as provided in subsection (1)(e), shall be fined not to exceed \$10,000 or be imprisoned in the state prison for a term not to exceed 10 years, or both.</p> <p>(3) An offense is not committed under subsections (1)(d) through (1)(g) if the visual or print medium is processed, developed, printed, published, transported, distributed, sold, possessed, or possessed with intent to sell, or if the activity is financed, as part of a sex offender information or treatment course or program conducted or approved by the department of corrections.</p>

<b>Title 46: Criminal Procedure</b>
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<b>MT Title 46 Code §</b>	<b>Code Language</b>
§ 46-18-256	<p><b>Sexually transmitted disease testing -- test procedure.</b></p> <p>(1) Following entry of judgment, a person convicted of a sexual offense, as defined in 46-23-502, except an offense under 45-5-301 through 45-5-303, must, at the request of the victim of the sexual offense or the parent or guardian of the victim, if the victim is a minor, be administered standard testing according to currently accepted protocol, using guidelines established by the centers for disease control, U.S. department of health and human services, to detect in the person the presence of antibodies indicative of the presence of human immunodeficiency virus (HIV) or other sexually transmitted diseases, as defined in 50-18-101.</p> <p>(2) Arrangements for the test required by subsection (1) must be made by the county attorney of the county in which the person was convicted. The test must be conducted by a health care provider, as defined in 50-16-504.</p> <p>(3) The county attorney of the county in which the person was convicted shall release the information concerning the test results to:</p> <p>(a) the convicted person; and</p> <p>(b) the victim of the offense committed by the convicted person or to the parent or guardian of the victim if the victim is a minor.</p> <p>(4) At the request of the victim of a sexual offense or the parent or guardian of the victim if the victim is a minor, the victim must be provided counseling regarding HIV disease, HIV testing (in accordance with applicable law), and referral for appropriate health care and support services.</p> <p>(5) For purposes of this section, "convicted" includes an adjudication, under the provisions of 41-5-1502, finding a youth to be a delinquent youth or a youth in need of intervention.</p> <p>(6) The provisions of the AIDS Prevention Act, Title 50, chapter 16, part 10, do not apply to this section.</p>
46-23-502	<p><b>Definitions.</b></p> <p>As used in <a href="#">46-18-255</a> and this part, the following definitions apply:</p> <p>(1) "Department" means the department of corrections provided for in <a href="#">2-15-2301</a>.</p> <p>(2) "Mental abnormality" means a congenital or acquired condition that affects the mental, emotional, or volitional capacity of a person in a manner that predisposes the person to the commission of one or more sexual offenses to a degree that makes the person a menace to the health and safety of other persons.</p>

MT Title 46 Code §	Code Language
	<p>(3) "Personality disorder" means a personality disorder as defined in the fourth edition of the Diagnostic and Statistical Manual of Mental Disorders adopted by the American psychiatric association.</p> <p>(4) "Predatory sexual offense" means a sexual offense committed against a stranger or against a person with whom a relationship has been established or furthered for the primary purpose of victimization.</p> <p>(5) "Sexual offender evaluator" means a person qualified under rules established by the department to conduct sexual offender and sexually violent predator evaluations.</p> <p>(6) "Sexual offense" means:  (a) any violation of or attempt, solicitation, or conspiracy to commit a violation of <a href="#">45-5-301</a> (if the victim is less than 18 years of age and the offender is not a parent of the victim), <a href="#">45-5-302</a>, <a href="#">45-5-303</a>, <a href="#">45-5-502</a>(3), <a href="#">45-5-503</a>, <a href="#">45-5-504</a>(1) (if the victim is under 18 years of age and the offender is 18 years of age or older), <a href="#">45-5-504</a>(2)(c), <a href="#">45-5-507</a> (if the victim is under 18 years of age and the offender is 3 or more years older than the victim), <a href="#">45-5-603</a>(1)(b), or <a href="#">45-5-625</a>; or  (b) any violation of a law of another state or the federal government that is reasonably equivalent to a violation listed in subsection (6)(a) or for which the offender was required to register as a sex offender after conviction.</p> <p>(7) "Sexual or violent offender" means a person who has been convicted of a sexual or violent offense.</p> <p>(8) "Sexually violent predator" means a person who has been convicted of a sexual offense and who suffers from a mental abnormality or a personality disorder that makes the person likely to engage in predatory sexual offenses.</p> <p>(9) "Violent offense" means:  (a) any violation of or attempt, solicitation, or conspiracy to commit a violation of <a href="#">45-5-102</a>, <a href="#">45-5-103</a>, <a href="#">45-5-202</a>, <a href="#">45-5-206</a> (third or subsequent offense), <a href="#">45-5-210</a>(1)(b), (1)(c), or (1)(d), <a href="#">45-5-212</a>, <a href="#">45-5-213</a>, <a href="#">45-5-401</a>, <a href="#">45-6-103</a>, or <a href="#">45-9-132</a>; or  (b) any violation of a law of another state or the federal government reasonably equivalent to a violation listed in subsection (9)(a).</p>

<b>Title 50: Health and Safety</b>
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MT Title 50 Code §	Code Language
50-16-702	<p><b>Notification of exposure to infectious disease -- report of exposure to disease.</b></p> <p>(1) (a) If an emergency services provider acting in an official capacity attends a patient prior to or during transport or assists in transporting a patient to a health care facility and the emergency services provider has had an exposure, the emergency services provider may request the designated officer to submit the form required by department rule to the health care facility on the emergency services provider's behalf. The form must be provided for in rules adopted by the department and must include the emergency services provider's name and other information required by the department, including a description of the exposure. The designated officer shall submit the completed form to the health care facility receiving the patient as soon as possible after the request for submission by the emergency services provider. Submission of the form to the health care facility is an indication that the emergency services provider was exposed and a verification that the designated officer and the emergency services provider believe that the emergency services provider was exposed.</p> <p>(b) If the exposure described on the form occurred in a manner that may allow infection by HIV, as defined in 50-16-1003, by a mode of transmission recognized by the U.S. department of health and human services, centers for disease control and prevention, then submission of the form to the health care facility constitutes a request to the patient's physician to perform an HIV diagnostic test pursuant to section 1 (see MCA §50-16-10 below).</p> <p>(c) Upon receipt of the report of exposure from a designated officer, the health care facility shall notify the designated officer in writing whether or not a determination has been made that the patient has or does not have an infectious disease. If a determination has been made and the patient has been found:</p> <p>(i) to have an infectious disease, the information required by 50-16-703 must be provided by the health care facility;</p> <p>(ii) to not have an infectious disease, the date on which the patient was transported to the health care facility must be provided by the health care facility.</p> <p>(2) If a health care facility receiving a patient determines that the patient has an airborne infectious disease, the health care facility shall, within 48 hours after the determination was made, notify the designated officer and the department of that fact. The notice to the department must include the name of the emergency services organization that transported the patient to the health care facility. The department shall, within 24 hours after receiving the notice, notify the designated officer of the emergency services provider who transported the patient.</p>

<b>MT Title 50 Code §</b>	<b>Code Language</b>
	<p>(3) A designated officer who receives the notification from a health care facility required by 50-16-703(2) or by subsection (1)(c) of this section shall immediately provide the information contained in the notification to the emergency services provider for whom the report of exposure was filed or who was exposed to a patient with an airborne infectious disease."</p>
§ 50-16-1001	<p><b>Short title.</b></p> <p>This part may be cited as the "AIDS Prevention Act".</p> <p><b>Section 1. Screening and pretest information.</b> (1) Screening for HIV-related conditions must be considered routine and must be incorporated into the patient's general informed consent for medical care on the same basis as other screening and diagnostic tests.</p> <p>(2) Screening for HIV-related conditions must be voluntary and undertaken with the patient's knowledge and understanding that HIV diagnostic testing is planned.</p> <p>(3) Patients must be informed orally or in writing that HIV diagnostic testing will be performed.</p> <p>(4) If a patient declines an HIV diagnostic test, this decision must be documented in the patient's medical record.</p> <p><b>Section 2. Prenatal HIV screening.</b> (1) Screening for HIV-related conditions must be considered routine and must be incorporated into the pregnant patient's general informed consent for medical care on the same basis as other routine prenatal screening and diagnostic tests.</p> <p>(2) Screening for HIV-related conditions in pregnant patients must be voluntary and undertaken with the patient's knowledge and understanding that HIV diagnostic testing is planned.</p> <p>(3) Pregnant patients must be informed orally or in writing that HIV diagnostic testing will be performed.</p> <p>(4) If a pregnant patient declines an HIV diagnostic test, this decision must be documented in the patient's medical record.</p> <p>(5) Physicians and other health care providers licensed to provide prenatal care to pregnant women may:</p> <p>(a) offer an HIV diagnostic test in the third trimester to pregnant women who were not tested earlier in the pregnancy; and</p> <p>(b) offer a repeat HIV diagnostic test in the third trimester of pregnancy, preferably before 36 weeks of gestation, to each of their pregnant patients at high risk for acquiring HIV-related conditions.</p>

<b>MT Title 50 Code §</b>	<b>Code Language</b>
	<p><b>Section 3. Labor and delivery HIV screening.</b> Physicians and other health care providers licensed to provide prenatal care to pregnant women shall, if medically indicated:</p> <p>(1) offer a rapid HIV diagnostic test to pregnant women in labor with unknown or undocumented HIV status;</p> <p>(2) offer antiretroviral prophylaxis without waiting for the results of the confirmatory test if a rapid HIV diagnostic test or a standard HIV diagnostic test is positive.</p> <p>Sections 1 through 3 are intended to be codified as an integral part of Title 50, chapter 16, part 10, and the provisions of Title 50, chapter 16, part 10, apply to sections 1 through 3.</p>
§ 50-16-1002	<p><b>Statement of purpose.</b></p> <p>(1) The legislature recognizes that the epidemic of human immunodeficiency virus (HIV) infection, the causative agent of acquired immune deficiency syndrome (AIDS), and related medical conditions constitutes a serious danger to the public health and welfare. In the absence of a vaccine or a cure and because of the sexual and intravenous drug use behaviors by which the virus is predominately spread, control of the epidemic is dependent on the education of those infected or at risk for infection.</p> <p>(2) It is the intent of the legislature that education directed at preventing the transmission of HIV be provided to those infected and at risk of infection and to entreat such persons to come forward to determine their HIV infection status and to obtain appropriate education.</p>
§ 50-16-1003	<p><b>Definitions.</b></p> <p>As used in this part, the following definitions apply:</p> <p>(1) "AIDS" means acquired immune deficiency syndrome as further defined by the department in accordance with standards promulgated by the U.S. department of health and human services, centers for disease control and prevention.</p> <p>(2) "Antiviral prophylaxis" means a specific drug regime preventing mother-to-child transmission of HIV infections.</p> <p>(3) "Contact" means a person who has been exposed to the test subject in a manner, voluntary or involuntary, that may allow HIV transmission in accordance with modes of transmission recognized by the U.S. department of health and human services, centers for disease control and prevention.</p> <p>(4) "Department" means the department of public health and human</p>

<b>MT Title 50 Code §</b>	<b>Code Language</b>
	<p>services provided for in 2-15-2201.</p> <p>(5) "Health care facility" means a health care institution, private or public, including but not limited to a hospital, nursing home, clinic, blood bank, blood center, sperm bank, or laboratory.</p> <p>(6) "Health care provider" means a person who is licensed, certified, or otherwise authorized by the laws of this state or who is licensed, certified, or otherwise authorized by the laws of another state to provide health care in the ordinary course of business or practice of a profession. The term does not include a person who provides health care solely through the sale or dispensing of drugs or medical devices.</p> <p>(7) "HIV" means the human immunodeficiency virus, identified as the causative agent of AIDS, and all HIV and HIV-related viruses that damage the cellular branch of the human immune or neurological systems and leave the infected person immunodeficient or neurologically impaired.</p> <p>(8) "HIV-related condition" means a chronic disease resulting from infection with HIV, including but not limited to AIDS and asymptomatic seropositivity for HIV.</p> <p>(9) "HIV diagnostic test" means a test approved by the federal food and drug administration, including but not limited to an enzyme immunoassay and a western blot, that is designed to detect the presence of HIV or antibodies to HIV.</p> <p>(10) "Local board" means a county, city, city-county, or district board of health.</p> <p>(11) "Person" means an individual, corporation, organization, or other legal entity.</p> <p>(12) "Rapid HIV diagnostic test" means a federally approved test designed to assist in time-sensitive diagnosis of HIV infections.</p>
§ 50-16-1004	<p><b>AIDS, HIV-related conditions, and HIV infection to be treated as other communicable diseases.</b></p> <p>It is the intent of the legislature to treat AIDS, HIV-related conditions, and HIV infection in the same manner as other communicable diseases, including sexually transmitted diseases, by adopting the most currently accepted public health practices with regard to testing, reporting, partner notification, and disease intervention. Nothing in this section is intended to prohibit the department from allowing testing for HIV infection to be performed and reported without identification of the subject of the test. The department shall adopt rules, as provided in 50-1-202, to reflect this policy.</p>
§ 50-16-1007	<b>Repealed</b>
§ 50-16-1008	<b>Testing of donors of organs, tissues, and semen required -- penalty.</b>

<b>MT Title 50 Code §</b>	<b>Code Language</b>
	<p>(1) Prior to donation of an organ, semen, or tissues, HIV diagnostic testing of a prospective donor, in accordance with nationally accepted standards adopted by the department by rule, is required unless the transplantation of an indispensable organ is necessary to save a patient's life and there is not sufficient time to perform an HIV diagnostic test.</p> <p>(2) A knowing or purposeful violation of this section is a misdemeanor punishable by a fine of up to \$ 1,000 or imprisonment of up to 6 months, or both.</p>
§ 50-16-1009	<p><b>Confidentiality of records -- notification of contacts -- penalty for unlawful disclosure.</b></p> <p>(1) A person may not disclose or be compelled to disclose the identity of a subject of an HIV diagnostic test or the results of a test in a manner that permits identification of the subject of the test, except to the extent allowed under the Uniform Health Care Information Act, Title 50, chapter 16, part 5, the Government Health Care Information Act, Title 50, chapter 16, part 6, or applicable federal law.</p> <p>(2) If a health care provider informs the subject of an HIV diagnostic test that the results are positive, the provider shall encourage the subject to notify persons who are potential contacts. If the subject is unable or unwilling to notify all contacts, the health care provider may ask the subject to disclose voluntarily the identities of the contacts and to authorize notification of those contacts by a health care provider. A notification may state only that the contact may have been exposed to HIV and may not include the time or place of possible exposure or the identity of the subject of the test.</p> <p>(3) A person who discloses or compels another to disclose confidential health care information in violation of this section is guilty of a misdemeanor punishable by a fine of \$ 1,000 or imprisonment for 1 year, or both.</p>
§ 50-16-1013	<p><b>Civil remedy.</b></p> <p>(1) A person aggrieved by a violation of this part has a right of action in the district court and may recover for each violation:</p> <ul style="list-style-type: none"> <li>(a) against a person who negligently violates a provision of this part, damages of \$ 5,000 or actual damages, whichever is greater;</li> <li>(b) against a person who intentionally or recklessly violates a provision of this part, damages of \$ 20,000 or actual damages, whichever is greater;</li> <li>(c) reasonable attorney fees; and</li> <li>(d) other appropriate relief, including injunctive relief.</li> </ul> <p>(2) An action under this section must be commenced within 3 years after the cause of action accrues.</p> <p>(3) The department may maintain a civil action to enforce this part in</p>

<b>MT Title 50 Code §</b>	<b>Code Language</b>
	<p>which the court may order any relief permitted under subsection (1).</p> <p>(4) Nothing in this section limits the rights of a subject of an HIV diagnostic test to recover damages or other relief under any other applicable law or cause of action.</p> <p>(5) Nothing in this part may be construed to impose civil liability or criminal sanctions for disclosure of an HIV diagnostic test result in accordance with any reporting requirement for a diagnosed case of AIDS or an HIV-related condition by the department or the U.S. department of health and human services, centers for disease control and prevention</p>
<p>50-18-101</p> <p>1993 Statement of Intent:</p>	<p><b>Sexually transmitted diseases defined.</b></p> <p>Human immunodeficiency virus (HIV), syphilis, gonorrhea, chancroid, chlamydia genital infections, lymphogranuloma venereum, and granuloma inguinale are sexually transmitted diseases. Sexually transmitted diseases are contagious, infectious, communicable, and dangerous to public health.</p> <p>The statement of intent attached to Ch. 71, L. 1993, provided: "It is the intent of the legislature to amend 46-18-256 and 50-18-101 in order to comply with federal requirements of the Crime Control Act of 1990 that requires states to enact laws related to human immunodeficiency virus (HIV) testing of certain convicted offenders or be subject to reduced federal funding.</p> <p>Upon the request of the victim or the victim's representatives, testing and the test results must be made available for the victim's information. Testing information may or may not reveal exposure to the HIV virus. If exposed, the victim can seek medical treatment and take steps to protect others from the further spread of the epidemic.</p> <p>This bill is intended to be a benefit to public health and safety by attempting to control and limit the potential spread and impact of disease. It is not intended to add additional sanctions or penalties for conviction of sexual abuse offenses or to make criminals of the victims of disease."</p>
<p>50-18-106</p>	<p><b>Duty to report cases.</b></p> <p>If a physician or other person knows or has reason to suspect that a person who has a sexually transmitted disease is conducting himself in a way which might expose another to infection, he shall immediately notify the local health officer of the name and address of the diseased person and the essential facts in the case.</p>
<p>50-18-107</p>	<p><b>Powers and duties of health officers.</b></p> <p>(1) If found necessary or desirable to protect public health, state and local health officers or their authorized deputies or agents shall:</p>

<b>MT Title 50 Code §</b>	<b>Code Language</b>
	<p>(a) examine or have examined persons reasonably suspected of being infected with a sexually transmitted disease;</p> <p>(b) require persons infected to report for treatment to a reputable physician and continue treatment, which may be at public expense, until cured;</p> <p>(c) isolate or quarantine persons who refuse examination or treatment;</p> <p>(d) investigate sources of infection of a sexually transmitted disease.</p> <p>(2) No one but the state or local health officer may terminate the isolation or quarantine. Examinations may be made repeatedly as deemed advisable or desirable.</p>
50-18-108	<p><b>Examination and treatment of prisoners.</b></p> <p>Any person confined or imprisoned in any state, county, or municipal prison within the state may be examined for a sexually transmitted disease. If infected, the person must be treated by health authorities.</p>
50-18-109	<p><b>Permissible release of information concerning infected persons.</b></p> <p>(1) Information concerning persons infected or reasonably suspected to be infected with a sexually transmitted disease may be released only:</p> <ul style="list-style-type: none"> <li>(a) to personnel of the department of public health and human services;</li> <li>(b) to a physician who has written consent of the person whose record is requested;</li> <li>(c) to a local health officer; or</li> <li>(d) by the department of public health and human services or a local health officer or board under the circumstances allowed by Title 50, chapter 16, part 6.</li> </ul> <p>(2) For the purposes of this section, the term "information" includes all knowledge or intelligence and all communications of all knowledge or intelligence, oral or written or in record form, and also includes but is not limited to information concerning the location or nature of the activities or work of all local, state, or federal employees or officers engaged in sexually transmitted disease eradication work. Communications to and from personnel are privileged as provided in 26-1-810.</p> <p>(3) The purpose of this section is to protect and preserve the principle of confidentiality in sexually transmitted disease work by local, state, and federal public personnel, as confidentiality is important to the success of all sexually transmitted disease eradication work and endeavor, and to require that the principle of confidentiality in the work remain inviolate.</p>
50-18-112	<p><b>Infected person not to expose another to sexually transmitted disease.</b></p>

<b>MT Title 50 Code §</b>	<b>Code Language</b>
	A person infected with a sexually transmitted disease may not knowingly expose another person to infection.

**Title 72: Estates, Trusts, and Fiduciary Relationships**

<b>MT Title 72 Code §</b>	<b>Code Language</b>
72-17-207	<p data-bbox="418 361 928 390"><b>Examination -- autopsy -- liability.</b></p> <p data-bbox="418 424 1425 485">(1) An anatomical gift authorizes any reasonable examination necessary to assure medical acceptability of the gift for the purposes intended.</p> <p data-bbox="418 518 1349 579">(2) The provisions of this chapter are subject to the laws of this state governing autopsies.</p> <p data-bbox="418 613 1409 741">(3) A hospital, physician, surgeon, coroner, enucleator, technician, nurse, or other person who acts in accordance with this chapter or with the applicable anatomical gift act of another state or attempts in good faith to do so is not liable for that act in a civil action or criminal proceeding.</p> <p data-bbox="418 774 1403 869">(4) An individual who makes an anatomical gift pursuant to <a href="#">72-17-201</a> or <a href="#">72-17-214</a> and the individual's estate are not liable for any injury or damage that may result from the making or use of the anatomical gift.</p>

<b>Administrative Rules of Montana – Title 24: Labor and Industry</b>
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<b>ARM Title 24</b>	<b>Code Language</b>
24.117.406	<p><b>GENERAL LICENSING REQUIREMENTS</b></p> <p>(1) All referees, seconds, managers, contestants, promoters and judges must be licensed by the board.</p> <p>(2) All licenses end on the date set by ARM <a href="#">24.101.413</a> and are nonrenewable.</p> <p>(3) Applications and fees shall be received by the board prior to or on the date of the athletic event.</p> <p style="padding-left: 20px;">(a) Application must be on forms provided by the board and include a photograph of the applicant or contestant.</p> <p>(4) Contests staged on federal or tribal land within the state of Montana, shall be governed by such rules and regulations as may be agreed upon between the governing bodies concerned and the Board of Athletics.</p> <p>(5) No person shall charge or receive an admission fee for exhibiting within this state a telecast of any bout or athletic event as defined at ARM <a href="#">24.117.301</a>, held in this state, without a permit issued by the board. Permits are required for simultaneous telecasts, closed circuit telecasts or any transmission of any kind, including but not limited to, transmission via microwave, closed circuit, satellite or fiber optic link.</p> <p>(6) Except in club boxing, all contestants shall submit a certified laboratory report documenting that the contestant has, within 30 days prior to each bout or match in which the contestant is scheduled to appear, been administered an HIV test for the presence of AIDS antibodies and that the results of such test were negative.</p>

<b>Administrative Rules of Montana - Title 37: Public Health and Human Services</b>
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<b>ARM Title 37</b>	<b>Code Language</b>
37.40.306	<p><b>PROVIDER PARTICIPATION AND TERMINATION REQUIREMENTS</b></p> <p>(1) Nursing facility service providers, as a condition of participation in the Montana Medicaid program must meet the following requirements:</p> <p>(h) maintain admission policies which do not discriminate on the basis of diagnosis or handicap, and which meet the requirements of all federal and state laws prohibiting discrimination against the handicapped, including persons infected with acquired immunity deficiency syndrome/human immunodeficiency virus (AIDS/HIV);</p>
37.98.1003	<p><b>Outdoor Behavioral Program – Program Emergency and Health Provisions - Healthcare</b></p> <p>(14) Depending on the length of the program and/or whether these needs have been documented to have been met elsewhere, youth must receive age-appropriate health education and instruction regarding teen pregnancy prevention, HIV education and prevention and general information about the prevention and treatment of sexually transmitted diseases. The program shall be in compliance with federal and state guidelines governing sexually transmitted diseases.</p>
37.114.201	<p><b>REPORTERS</b></p> <p>(1) With the exception noted in (3) below, any person, including but not limited to a physician, dentist, nurse, medical examiner, other health care practitioner, administrator of a health care facility, public or private school administrator, city health officer, or laboratorian who knows or has reason to believe that a case exists shall immediately report:</p> <p>(a) to the department alone in the case of acquired immune deficiency syndrome (AIDS) or human immunodeficiency virus (HIV) infection, the following information, if available:</p> <p>(i) name and age of the case;</p> <p>(ii) whether or not the case is suspected or confirmed;</p> <p>(iii) name and address of the case's physician; and</p> <p>(iv) name of the reporter or other person the department can contact for pertinent information about the case;</p> <p>(b) the information specified in ARM <a href="#">37.114.205</a>(1)(a) through (e) to the county, city-county, or district health officer in every case other than a case of AIDS, HIV infection, Colorado tick fever, or influenza; or</p> <p>(c) if the disease in question is Colorado tick fever or influenza, the fact that a case has occurred to the county, city-county, or district health officer.</p> <p>(2) A county, city-county, or district health officer must submit to the department, on the schedule noted in ARM <a href="#">37.114.204</a>, the information</p>

<b>ARM Title 37</b>	<b>Code Language</b>
	<p>specified in ARM <a href="#">37.114.205</a> concerning each confirmed or suspected case of which the officer is informed.</p> <p>(3) A state funded anonymous testing site for HIV infection is not subject to the reporting requirement in (1)(a) above.</p>
37.114.205	<p><b>REPORT CONTENTS</b></p> <p>(1) A report of a case of reportable disease or a condition which is required by ARM <a href="#">37.114.204</a>(1) or (2) must include, if available:</p> <ul style="list-style-type: none"> <li>(a) name and age of the case;</li> <li>(b) dates of onset of the disease or condition and the date the disease or condition was reported to the health officer;</li> <li>(c) whether or not the case is suspected or confirmed;</li> <li>(d) name and address of the case's physician; and</li> <li>(e) name of the reporter or other person the department can contact for further information regarding the case.</li> </ul> <p>(2) The information required by (1) of this rule must be supplemented by any other information in the possession of the reporter which the department requests and which is related to case management and/or investigation of the case.</p> <p>(3) Within 30 days of receiving a completed report of a case with HIV infection or AIDS, the department will:</p> <ul style="list-style-type: none"> <li>(a) remove the name, street address, and any other information that could be used to identify the case from all reports, both paper and electronic;</li> <li>(b) generate a number-based unique identifier for the case to be used internally by the department; and</li> <li>(c) contact the local health officer of the county where the case resides or the officer's designee to give the officer or designee information about the case and the need for further investigation and/or follow-up.</li> </ul> <p>(4) The laboratory reports required by ARM <a href="#">37.114.204</a>(5) and the numerical report required by ARM <a href="#">37.114.204</a>(3) need contain only the information specified in those sections.</p> <p>(5) The name and/or unique identifier of any case with a reportable disease or condition and the name and address of the reporter of any such case are confidential and not open to public inspection.</p>
37.114.503	<p><b>ACQUIRED IMMUNE DEFICIENCY SYNDROME (AIDS) AND HIV INFECTION</b></p> <p>(1) Whenever human immunodeficiency virus (HIV) infection occurs, blood and body fluid precautions must be used for the duration of the infection.</p> <p>(2) If a test confirms HIV infection, the department will contact the health care provider submitting the test or another health care provider designated by the subject of the test in order to determine whether</p>

<b>ARM Title 37</b>	<b>Code Language</b>
	<p>acquired immune deficiency syndrome is present. If AIDS exists, the provider must submit a report pursuant to ARM <a href="#">37.114.205</a>.</p> <p>(3) Either a health care provider treating an individual with HIV infection for that infection or a representative of the department or local health department must:</p> <ul style="list-style-type: none"> <li>(a) instruct the case how to prevent spreading the HIV infection to others;</li> <li>(b) provide the case with information about any available services relevant to the case's health status and refer the case to appropriate services;</li> <li>(c) interview the infected person to determine the person's contacts; and</li> <li>(d) locate each contact, counsel each contact, advise the contact to receive testing to determine the contact's HIV status, and refer the contact for appropriate services.</li> </ul> <p>(4) The health care provider must either conduct the interview with the case and assist the case with contact notification or request the department to assist in conducting the interview and/or notifying contacts.</p>
37.114.1010	<p><b>EMPLOYEE OF SCHOOL: DAY CARE FACILITY CARE PROVIDER</b></p> <p>(6)(a) If the tuberculin skin test results are significant or if the school employee or day care worker has ever, in the past, had a positive tuberculin skin test with purified-protein derivative and has not had adequate chemoprophylaxis, s/he must be evaluated by a physician, either before or within one week after receiving the results of the test, in the case of a test with significant results, or one week after commencing employment, in the case of an untreated person with a past positive test result, to ascertain whether or not s/he has any of the following conditions:</p> <ul style="list-style-type: none"> <li>(i) x-rays indicative of tuberculosis infection;</li> <li>(ii) history of exposure to a case of communicable tuberculosis within the previous two years;</li> <li>(iii) history of a negative tuberculin skin test within the previous two years;</li> <li>(iv) severe or poorly controlled diabetes mellitus;</li> <li>(v) disease associated with severe immunologic deficiencies (e.g., cancer, reticuloendothelial disease, or HIV infection);</li> </ul>