

Rhode Island

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March 17, 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.

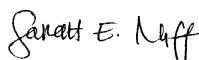
We update the *Compendium* periodically, but it is beyond the scope of the project to perform ongoing verification of every section frequently. We encourage readers to send comments, corrections, and updates (with citations when possible) to Sarah Neff at neffs@nccc.ucsf.edu.

Thank you,



Ronald H. Goldschmidt, MD
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

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Definitions Commonly Used Nationally

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

Helpful Resources

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

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

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

For questions or comments about the compendium, contact NCCC: NCCCTemp@nccc.ucsf.edu

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

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

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

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

Rhode Island

A Quick Reference Guide for Clinicians to Rhode Island HIV Testing Laws

March 17, 2009

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

Informed Consent

- Specific informed consent form required; patient may opt-out of testing on form; informed consent must be in writing, excepting anonymous testing, which may be verbal (see *State Policies Relating to HIV Testing, 2009*, below, for exceptions).

Counseling

- Pre-test information and client-specific counseling tailored to the patient (to allow greater flexibility) must be offered with HIV testing and informed consent; information may be oral or written.
- Post-test counseling must be given in person (see *State Policies Relating to HIV Testing, 2009*, below, for specific requirements).

Provisos of Testing

- **Anonymous**
 - Anonymous testing is available at designated anonymous testing sites.
- **Rapid**
 - No specific provisions regarding rapid testing were found.
- **Routine**
 - A physician or health care provider attending to any person who may be at risk for HIV infection shall routinely offer the HIV test to those patients.
 - HIV test may be included as part of routine panel of tests for pregnant women.

Disclosure

- Results must be given in person
- Notification to partners of a possible exposure to HIV is not required.

Minor/Adolescent Testing

- Minors may consent to services for reportable communicable diseases, HIV explicitly included.

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Perinatal Quick Reference Guide:

A Guide to Rhode Island Perinatal HIV Testing Laws for Clinicians

March 17, 2009

This Perinatal Quick Reference Guide for clinicians is a summary of relevant Rhode Island 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 Rhode Island HIV testing laws, please refer to the corresponding section of the *State HIV Testing Laws Compendium* (www.nccc.ucsf.edu), “Testing of pregnant women and/or newborns.”

Prenatal

- Testing of pregnant women in prenatal care as part of the routine panel of prenatal tests is through the opt-out process.
- Pre-test information & counseling must be offered to pregnant women in prenatal care, see below.
- **Initial visit**
 - Physicians or health care providers must offer HIV testing to all patients seeking prenatal care or family planning services.
- **Third trimester**
 - Repeat testing in the third trimester is recommended if determined by the physician.

Labor & Delivery

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

Neonatal

- Newborns of unknown status shall be tested immediately; consent not required.

Other

- **Counseling**
 - Pre-test information and client-specific counseling tailored to the patient (to allow greater flexibility) must be offered with HIV testing and informed consent; information may be oral or written. The department of health shall provide appropriate health care providers with the written information, in multiple languages, that must include:
 - (A) an explanation of HIV infection;
 - (B) a description of the interventions that can reduce HIV transmission from mother to infant;
 - (C) the meaning of positive and negative test results;
 - (D) an opportunity to ask questions.
 - Post-test counseling required for pregnant women with HIV positive results must include:
 - (A) the meaning of the test result;
 - (B) the possible need for additional testing;
 - (C) measures to prevent the transmission of HIV;
 - (D) measures to prevent perinatal HIV transmission; and
 - (E) the availability of, and referrals for, appropriate health care services, including mental health care, and appropriate social and support services.

Rhode Island State Policies Relating to HIV Testing, 2009

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Rhode Island General Laws [RIGL]

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Rhode Island Rules and Regulations

R23-6-HIV: Rules and Regulations Pertaining to HIV Counseling, Testing, Reporting, and Confidentiality	Pages 33-47
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	Policy Category	Type	Section Code(s)
RESTR. ICTIONS/ MANDATES	Restrictions on use of HIV test	Testing prohibited for employment/hiring purposes	RIGL §23-6-22
	Mandatory testing within the criminal justice system	Required testing without consent with provided pre- and post-test counseling for persons convicted of any criminal offense and committed to the Adult Correctional Institution (ACI)	R23-6-HIV 2.9
		Mandatory pre- and post-test counseling for persons convicted of loitering for indecent purposes, persons convicted of pandering, convicted sex offenders, for persons convicted of possession of hypodermic instrument for IV drug use, and all inmates	RIGL §11-34-1 RIGL §11-34-10 RIGL §11-34-8 RIGL §11-34-11 RIGL §11-37-17 RIGL §21-28-4.20 RIGL §42-56-37 R23-6-HIV 2.9
		Convicted sex offenders	RIGL §11-37-17 R23-6-HIV 2.2
		All inmates	RIGL §42-56-37
		Mandatory testing outside of the criminal justice system	Occupational exposures – health care workers
	Blood/organ/anatomical/semen donations	RIGL §23-18.6-12 RIGL §23-1-38 R23-6-HIV 2.12	
	Professional boxers, kick-boxers	RIGL §41-5-11.1	

PRE-TESTING	Mandatory offering of HIV/AIDS information and/or testing	HIV testing + informational brochure must be offered to all patients seeking STD services or treatment, all patients seeking prenatal care or family planning services, all intravenous drug using patients seeking treatment, all persons seeking services at facilities for intravenous drug users	RIGL §23-11-17 RIGL §23-13-19 RIGL § 23-17-31.1 RIGL §40.1-24-20 R23-6-HIV 2.1
		Needle exchange sites must offer HIV testing services	RIGL §23-11-19
		HIV testing must be offered to all eligible hospital patients	RIGL §23-17-31
		Physicians or other licensed health care proviers shall routinely offer HIV testing to persons who may be at risk for HIV infection	R23-6-HIV 2.1
	Informed consent	Signature of “informed consent form” required	RIGL §23-6-11 R23-6-HIV 4.0
		Recommended screening with informed consent unless the patient declines – opt-out	RIGL §23-6-11 RIGL §23-6-12
		Exceptions to required consent, including occupational exposures, emergency situations	RIGL §23-6-14 R23-6-HIV 5.0
		Consent required for insurance testing	RIGL §23-6-24
	Counseling requirements	Physician or health care provider treating for suspected STDs must give counseling	RIGL §23-11-17
		No person shall order an HIV test without providing pre-test specific information (may be oral or written) and client-specific counseling (for greater flexibility)	R23-6-HIV 2.2 R23-6-HIV 2.3 R23-6-HIV 8.0
		Pre- and post-test counseling required (see code for content)	R23-6-HIV 8.0 R23-6-HIV 9.1 R23-6-HIV 9.2
		Needle exchange programs must offer pre- and post-test counseling	RIGL §23-11-19 R23-6-HIV 2.1

		Providers must offer pre-test counseling to women in prenatal care or family planning services; post-test counseling required for women who test positive	RIGL §23-13-19 R23-6-HIV 2.1	
		Eligible hospital patients offered HIV testing must also be offered pre- and post-test counseling	RIGL §23-17-31 R23-6-HIV 2.1	
		IV drug facilities must offer pre- and post-test counseling	RIGL §23-17-31.1 R23-6-HIV 2.1	
	Anonymous testing	Mandated availability of free, anonymous HIV testing at state health department sites	RIGL §23-6-25	
		Only verbal informed consent required at anonymous testing sites	RIGL §23-6-12	
POST-TESTING	Disclosure/confidentiality	HIV test results as confidential	RIGL §23-6-17 R23-6-HIV 11.0	
		Exceptions to confidentiality	RIGL §23-6-17	
		Partner notification	RIGL §23-6-17	
		Patients must be notified of any lawful disclosures of their HIV status	RIGL §23-6-20 R23-6-HIV 12.0	
		Penalties for unlawful disclosure	R23-6-HIV 14.0	
	Reporting	Physicians required to report HIV positives	RIGL §23-6-26 R23-6-HIV 6.6	
		Excepting anonymous testing, the name of the patient shall be reported	R23-6-HIV 6.3 R23-6-HIV 6.8	
		Reporting of perinatal exposure to HIV	R23-6-HIV 13.0	
	OTHER	Testing of pregnant women and/or newborns	Attending physicians or health care providers must test pregnant women in prenatal care with their consent as part of the routine panel of prenatal tests – opt-out testing	RIGL §23-13-19
			Repeat testing in the third trimester is recommended if determined by the physician	RIGL §23-13-19
Pre-test information and counseling must be provided; client-specific counseling may be tailored to the individual for greater flexibility; information			RIGL §23-13-19	

	may be oral or written	
	Post-test counseling shall be provided for pregnant women who test HIV+	RIGL §23-13-19 R23-6-HIV 2.5
	Physicians or health care providers attending any person for prenatal care or family planning services must offer HIV testing	RIGL §23-13-19
	Consent not required for testing newborns and persons under the age of one	R23-6-HIV 5.1 (a)
	Newborns shall be tested immediately after birth when a mother's medical record lacks documentation, consent of the parents not required	R23-6-HIV 5.1 (h)
Testing of minors/adolescents	Minors may consent to services for any reportable communicable disease; HIV explicitly included	RIGL §23-8-1.1
	Consent not required for testing minors (1-13 yrs) if appear symptomatic for HIV	R23-6-HIV 5.1
	Consent not required for testing minor under the care and authority of the Rhode Island Department for Children, Youth, and Families, and the Director of said Department certifies that an HIV test is necessary to secure health or human services	R23-6-HIV 5.1
Rapid HIV testing	All non-hospital HIV tests must be conducted in department of health labs	RIGL §23-6-26
Training and education of health care providers	Professional counselors, other than physicians, who are involved with counseling of clients at risk for HIV must complete an HIV counseling training program sponsored by the Department of Health or approved by the director	R23-6-HIV 7.0

Recommended Resources

State of Rhode Island General Laws

<http://www.rilin.state.ri.us/Statutes/Statutes.html>

Rhode Island Rules and Regulations

<http://www.sec.state.ri.us/rules/>

Rhode Island Department of Health

<http://www.health.state.ri.us/>

Information for Providers: Laws, Rules, and Regulations

<http://www.health.ri.gov/hiv/laws.php>

Title 11: Criminal Offenses

RI Title 11 Code §	Code Language
§ 11-34-1	<p>Pandering</p> <p>(a) It shall be unlawful for any person to secure a person for a house of ill fame, or to procure for a person a place as inmate of a house of ill fame; or by any promise, threat, by abuse of person, or by any other device or scheme, to cause, induce, persuade, or encourage a person to become a prostitute, to enter upon or lead a wanton or dissolute life, to become an inmate of a house of ill fame, to enter a place in which prostitution is encouraged or allowed, or remain in it as an inmate, or to come into this state or leave this state for the purpose of prostitution. It shall be unlawful for any person to receive or give, or agree to receive or give, any money or thing of value for procuring or attempting to procure any person to become a prostitute, to enter upon or lead a wanton or dissolute life, or to become an inmate of a house of ill fame, either within or without this state, or come into this state or leave this state for the purpose of prostitution. It shall be unlawful for any person by any means to keep, hold, or detain against his or her will or restrain any person in any place for the purpose of prostitution, or in a house of ill fame or other place where prostitution is practiced or allowed for any purpose; or to directly or indirectly keep, hold, detain, or restrain, or attempt to keep, hold, detain, or restrain in any house of ill fame or other place where prostitution is allowed or practiced, any person by any means for the purpose of compelling that person, directly or indirectly, to pay, liquidate, or cancel any debt, dues, or obligations incurred or said to have been incurred by that person.</p> <p>(b) Every person who commits any of the offenses described in subsection (a) of this section, or who assists, abets, or aids another to commit any of those offenses, shall be guilty of pandering. For the first offense that person shall be punished by imprisonment for not less than one year and not more than five (5) years and a fine of not less than two thousand dollars (\$ 2,000), nor more than five thousand dollars (\$ 5,000). For every subsequent offense that person shall be punished by imprisonment for not less than three (3) years and not more than ten (10) years and a fine of not less than five thousand dollars (\$ 5,000), nor more than ten thousand dollars (\$ 10,000).</p>
§ 11-34-2	<p>Venue of pandering prosecutions</p> <p>It shall not be a defense to any prosecution for any of the offenses described in § 11-34-1 that the offense or any part of the offense shall have been committed outside the state, and any offense described in § 11-34-1 may be alleged to have been committed. The offender may be prosecuted and punished in any county in which the offender or the person upon or against whom the offense was committed may be found, or in which the offense was consummated, or in which any overt acts in furtherance of the offenses shall have been committed.</p>

RI Title 11 Code §	Code Language
§ 11-34-3	<p>Spouse as witness in pandering prosecution</p> <p>In any prosecution for any offense under § 11-34-1, any person shall be a competent witness against the offender in relation to any pandering offense committed by the offender upon or against him or her, or by the offender against or upon another person or persons in his or her presence, notwithstanding that person may have been married to the offender before or after the commission of the offense, and notwithstanding that person may be called as a witness during the existence of the marriage or after its dissolution.</p>
§ 11-34-4	<p>Search for and delivery of inmate of house of ill fame</p> <p>Whenever there is reason to believe that any person has been inveigled, enticed, induced, persuaded, or encouraged to enter a house of ill fame or other place where prostitution is allowed or practiced, or is being kept, held, detained, or restrained in any house of ill fame or other place where prostitution is allowed or practiced, upon complaint being made under oath by any director of human services, member of the division of state police, sheriff, deputy sheriff, chief of police, town sergeant, or constable, or by the parent, master, or guardian of the person, to any justice or clerk of a district court authorized to issue warrants, the justice or clerk may issue a warrant to enter by day or night the house of ill fame or other place, to search for the person, and to bring that person and the person in whose possession or keeping he or she may be found before the district court. The court may, on examination, order that person to be delivered to the director of human services, parent, master, or guardian, or to be placed in the charge of a probation officer, or to be discharged in accordance with law.</p>
§ 11-34-5	<p>Transportation for indecent purposes -- Harboring prostitution</p> <p>(a) It shall be unlawful for any person, for pecuniary gain, to secure, direct, or transport, or offer to secure, direct, or transport another for the purpose of prostitution, or for any other lewd or indecent act; or to receive or offer or agree to receive any person into any place, structure, house, building, room, or conveyance for the purpose of committing any such acts, or knowingly permit any person to remain in the premises for those purposes, or to, in any way, aid or abet or participate in any of the acts or things enumerated in this chapter.</p> <p>(b) Any person found guilty under this section shall be subject to imprisonment in the adult correctional institutions for not less than one year and not more than five (5) years, and a fine of not less than two thousand dollars (\$ 2,000) nor more than five thousand dollars (\$ 5,000). For every subsequent offense that person shall be punished by imprisonment for not less than three (3) years and for not more than ten (10) years and a fine of not less than five thousand dollars (\$ 5,000) nor more than ten thousand dollars (\$ 10,000).</p>

RI Title 11 Code §	Code Language
§ 11-34-5.1	<p>Deriving support or maintenance from prostitution</p> <p>Any person, knowing a person to be a prostitute, who shall live or derive support or maintenance, in whole or in part, from the earnings or proceeds of prostitution, from moneys loaned, advanced to, or charged against the prostitute by any keeper, manager, or inmate of a house of ill fame or other place where prostitution is practiced or allowed, or who shall share in the earnings, proceeds or moneys, shall be punished by imprisonment in the adult correctional institutions for not less than one year nor more than five (5) years, or by a fine of not less than two thousand dollars (\$ 2,000) and not more than five thousand dollars (\$ 5,000), or both, and for every subsequent offense shall be punished by imprisonment for not less three (3) years and not more than ten (10) years, and by a fine of not less than five thousand dollars (\$ 5,000) and not more than ten thousand dollars (\$ 10,000), or both. However, nothing in this section shall apply to a minor dependent of the prostitute.</p>
§ 11-34-6	<p>Reputation testimony as evidence</p> <p>In the trial of any person charged with a violation of § 11-34-5, testimony concerning the reputation of the place where the violation occurred or of persons who frequent or reside in it shall be admissible in evidence in support of the charge.</p>
§ 11-34-7	<p>Examination and treatment for venereal disease</p> <p>Any person convicted for any violation of § 11-34-5 or of any other statute relating to lewd or lascivious behavior or unlawful sexual intercourse, and who shall be confined or imprisoned in any correctional institution for more than ten (10) days, may be examined by the department of health for venereal disease, through duly appointed, licensed physicians as agents. Any person that is examined may be detained until the result of the examination is duly reported. If found with venereal disease in an infectious stage, the person shall be treated, and if a menace to the public, quarantined, in accordance with rules and regulations, not inconsistent with law, of the director of health, who is authorized to formulate and issue them. Refusal to comply with or obey the rules or regulations shall constitute a misdemeanor and be punishable by fine not to exceed two hundred fifty dollars (\$ 250), or by imprisonment not to exceed three (3) months, or both.</p>
§ 11-34-8	<p>Loitering for indecent purposes</p> <p>(a) It shall be unlawful for any person to stand or wander in or near any public highway or street, or any public or private place, and attempt to engage passersby in conversation, or stop or attempt to stop motor vehicles, for the purpose of prostitution or other indecent act, or to patronize, induce, or otherwise secure a person to commit any indecent act. Any person found guilty under this section shall be deemed guilty of a misdemeanor and shall be subject to imprisonment for a term not</p>

RI Title 11 Code §	Code Language
	<p>exceeding six (6) months, or by a fine of not less than two hundred fifty dollars (\$ 250) nor more than one thousand dollars (\$ 1,000), or both.</p> <p>(b) Any person found guilty of a subsequent offense under this section shall be subject to imprisonment for a term of not more than one year, or a fine of not less than five hundred dollars (\$ 500) nor more than one thousand dollars (\$ 1,000), or both.</p>
§ 11-34-8.1	<p>Soliciting from motor vehicles for indecent purposes</p> <p>(a) It shall be unlawful for any person, while an operator or passenger in a motor vehicle to stop, or attempt to stop another vehicle or pedestrian, or to engage or attempt to engage persons in another vehicle or pedestrians in conversation, for the purposes of prostitution or other indecent act, or to patronize, induce, or otherwise secure another person to commit any indecent act. Any person found guilty under this section shall be deemed guilty of a misdemeanor and shall be subject to imprisonment for a term not exceeding six (6) months and by a fine of not less than five hundred dollars (\$ 500) nor more than one thousand dollars (\$ 1,000).</p> <p>(b) Any person found guilty of a subsequent offense under this section shall be subject to imprisonment for a term of not more than one year and a fine of not less than seven hundred fifty dollars (\$ 750) nor more than one thousand five hundred dollars (\$ 1,500). No fine imposed under this section may be suspended.</p>
§ 11-34-9	<p>Severability</p> <p>If any provision of this chapter or its application to any person or circumstances is held invalid, the invalidity does not affect other provisions or applications of the chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are declared to be severable.</p>
§ 11-34-10	<p>Human Immunodeficiency Virus (HIV)</p> <p>(a) Any person convicted of a violation of any provisions of this chapter shall be required to be tested for Human Immunodeficiency Virus (HIV). No consent for the testing shall be required.</p> <p>(b) The department of health shall be responsible for reasonable costs associated with performing and reporting the results of the HIV tests, including the costs of pretest and post-test counseling.</p> <p>(c) All persons tested under this section shall be provided pretest and post-test counseling in accordance with regulations adopted by the department of health; provided, that the counseling shall be in accordance with acceptable medical standards.</p>

RI Title 11 Code §	Code Language
	<p>(d) All persons who are tested under this section, who are determined to be intravenous drug abusers, shall be referred to appropriate sources of drug treatment by the department of health as follows:</p> <p>(1) Those persons who test positive for HIV infection shall be given priority for those outpatient treatment programs which are sponsored or supported by the department of health.</p> <p>(2) Those persons who test negative for HIV infection shall be referred to the appropriate division in the department of health for earliest possible evaluation and treatment.</p>
§ 11-34-11	<p>Loitering for indecent purposes in or near schools</p> <p>Any person who violates this section by attempting to engage a person for the purpose of prostitution or other indecent act, or to patronize or induce or otherwise secure a person to commit any indecent act in the building or on the grounds or within three hundred (300) yards of the grounds of a public or private elementary, vocational, or secondary school, shall be punished by a term of imprisonment of not more than one year and a fine of not less than five hundred dollars (\$ 500) nor more than one thousand dollars (\$ 1,000).</p>
§ 11-37-17	<p>Human Immunodeficiency Virus (HIV) -- Mandatory testing</p> <p>(a) Any person who has admitted to or been convicted of or adjudicated wayward or delinquent by reason of having committed any sexual offense involving sexual penetration, as defined in § 11-37-1, whether or not sentence or fine is imposed or probation granted, shall be ordered by the court upon the petition of the victim, immediate family members of the victim or legal guardian of the victim, to submit to a blood test for the presence of a sexually transmitted disease including, but not limited to, the Human Immunodeficiency Virus (HIV) which causes Acquired Immune Deficiency Syndrome (AIDS). Notwithstanding the provision of § 23-6-12, no consent for the testing shall be required.</p> <p>(b) Notwithstanding the limitations imposed by §§ 23-6-17 and 5-37.3-4, the results of the HIV test shall be reported to the court, which shall then disclose the results to any victim of the sexual offense who requests disclosure. Review and disclosure of blood test results by the courts shall be closed and confidential, and any transaction records relating to them shall also be closed and confidential.</p> <p>(c) Upon the victim's request, the department of health shall help provide HIV testing, as well as professional counseling to assist the victim in their understanding of the extent to which the particular circumstances of the crime may or may not have put the victim at risk of transmission of HIV from the perpetrator, to ensure that the victim understands both the benefits and limitations of the current test for HIV, and to obtain referrals to appropriate health care and support services.</p> <p>(d) All persons tested under this section shall be informed of the results of</p>

RI Title 11 Code §	Code Language
	the blood test. (e) Pretest and post-test counseling shall be in accordance with regulations adopted by the department of health; provided, that this counseling shall be in accordance with acceptable medical standards.

Title 15: Domestic Relations

RI Title 15 Code §	Code Language
§ 15-7-2.1	<p>Pre-adoption report on child placed for adoption.</p> <p>a) Notwithstanding any other law or regulation, in those cases where a child is placed for adoption by the department of children, youth and families or a licensed child placement agency, the agency shall provide a pre-adoption report in writing to the prospective adoptive parents as early as practicable after the filing of a termination of parental rights or direct consent adoption petition and before a prospective adoptive parent agrees to accept the child for purposes of adoption. The pre-adoptive report shall include the following information that is reasonably available within the records of the department of children, youth and families or the licensed child placement agency that is placing a child for adoption:</p> <p>(3) If the child has been tested for HIV, and the agency is aware of the results, those results must be disclosed in the report to the prospective adoptive parents.</p>

Title 21: Food and Drugs

RI Title 21 Code §	Code Language
§ 21-28-4.20	<p>Human immunodeficiency virus (HIV) -- Testing</p> <p>(a) Any person convicted of possession of any hypodermic instrument associated with intravenous drug use shall be required to be tested for human immunodeficiency virus (HIV). No consent for the testing shall be required.</p> <p>(b) The department of health shall be responsible for reasonable costs associated with performing and reporting the results of the HIV tests, including the costs of pre-test and post-test counseling.</p> <p>(c) All persons tested under this section shall be provided pre-test and post-test counseling in accordance with regulations adopted by the department of health; provided, that this counseling shall be in accordance with acceptable medical standards.</p> <p>(d) All persons who are tested under this section, who are determined to be intravenous drug abusers, shall be referred to appropriate sources of drug treatment by the department of health as follows:</p> <p>(1) Those persons who test positive for HIV infection shall be given priority for those outpatient treatment programs which are sponsored or supported by the department of health;</p> <p>(2) Those persons who test negative for HIV infection shall be referred to the appropriate division in the department of health for earliest possible evaluation and treatment.</p>

Title 23: Health and Safety

RI Title 23 Code §	Code Language
§ 23-1-36.1	<p>Director's duties regarding diseases -- Marriage licenses</p> <p>The director of health shall prepare and submit to the clerk's office of each city and town in the state a packet containing all appropriate information relating to any disease, including but not limited to, sexually transmitted diseases or general health issue as the director of health deems necessary, for distribution to all persons applying for a marriage license. The individual packet shall include an "AIDS Testing and Notification Form" which shall clearly state that the department of health provides confidential HIV tests, at no costs, and further provides pre-test and post-test educational materials and post-test counseling for HIV positive persons in accordance with regulations adopted by the department of health; provided, however, that any counseling shall be in accordance with acceptable medical standards.</p>
§ 23-1-38	<p>HIV antibody testing -- Sperm collection or donation</p> <p>The director shall promulgate guidelines for the prevention of transmission of HIV, and, particularly, in those instances of sperm collection or donation where the director shall require specific testing for HIV.</p>
§ 23-6-10	<p>Purpose.</p> <p>The purpose of §§ 23-6-10 – 23-6-24 is to protect the public against transmission of human immunodeficiency virus (HIV), and to protect persons who are infected with HIV from discrimination.</p>
§ 23-6-11	<p>Definitions</p> <p>As used in §§ 23-6-10 -- 23-6-24:</p> <p>(1) "AIDS" means the medical condition known as acquired immune deficiency syndrome, caused by infection of an individual by the human immunodeficiency virus (HIV).</p> <p>(2) "HIV" means the human immunodeficiency virus, the pathogenic organism responsible for the acquired immunodeficiency syndrome (AIDS).</p> <p>(3) "Informed consent form" means a standardized form provided by the Rhode Island department of health to those individuals offered HIV testing. The form shall be developed by the department and shall contain the following information:</p> <p>(i) The public health rationale for HIV testing and information describing the nature of the HIV disease;</p> <p>(ii) The availability and cost of HIV testing and counseling;</p>

RI Title 23 Code §	Code Language
	<p>(iii) That test results are confidential with certain exceptions;</p> <p>(iv) A list of exceptions to confidentiality of test results;</p> <p>(v) That the test is voluntary and that an informed consent form must be signed before testing;</p> <p>(vi) That by signing this form the person is only acknowledging that the HIV test and counseling have been offered and/or that he or she has declined (opted-out) the offer to be tested; and</p> <p>(vii) Notwithstanding the provisions of subsections (v) and (vi) above, in the event an individual consents to anonymous testing, the HIV testing counselor and/or attending practitioner ordering the test shall receive only verbal confirmation from the client that the client understands all applicable information contained within the informed consent form.</p> <p>(4) "HIV test" means any currently medically accepted diagnostic test for determining infection of an individual by HIV.</p> <p>(5) "Person" means any individual, firm, partnership, corporation, company, association, or joint stock association, state or political subdivision or instrumentality of a state.</p> <p>(6) "Physician" means a person licensed to practice allopathic or osteopathic medicine pursuant to the provisions of chapter 37 of title 5.</p> <p>(7) "Services" means health care and social support services.</p> <p>(8) "Occupational health representative" is an individual, within a health care facility, trained to respond to occupational, particularly blood borne, exposures.</p>
§ 23-6-12	<p>Testing</p> <p>§ 23-6-12 Testing. – (a) Recommendations regarding HIV testing shall reference the most current guidelines issued by the Centers for Disease Control and Prevention (CDC) pertaining to HIV Counseling, Testing and Referral of Adults, Adolescents and Pregnant Women; provided, however, those guidelines shall be interpreted by the department of health so as to best serve the clients and patients seeking HIV testing, and shall in no event be interpreted or implemented in a manner inconsistent with the minimum informed consent standards of this Title or other protections of state law. The recommendations shall emphasize that: (1) HIV screening is recommended in all health care settings, after the patient is informed, in accordance with this chapter's informed consent standards, that HIV testing will be done unless the patient declines; (2) persons at high-risk for HIV infection should be screened for HIV at least annually, in accordance with this chapter's informed consent standards; and (3) only verbal informed consent is required for anonymous testing.</p>

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	<p>(b) Unless otherwise excepted by the provisions of this chapter, no person may be tested for the presence of HIV where the test result can be identified with a specific individual, unless he or she has given his or her informed consent by his or her signature or that of a parent, guardian, or agent on a written informed consent form specifically relating to the test after discussion of implications of the test with a qualified professional. A physician or health care provider attending to any person who may be at risk for HIV infection shall routinely offer the HIV test to those patients. All testing pursuant to this section shall be performed in accordance with §§ 23-6-17 (confidentiality) and 23-6-18 (protection of the medical record) and this chapter's informed consent standards.</p> <p>(c) In the event an individual consents to anonymous testing and tests positive for HIV, the HIV testing counselor shall discuss with the client options regarding referrals and reporting of this positive screening, including the necessity of accessing a physician.</p> <p>(d) In addition to, and separate from, the requirement of subdivision 23-6-26(b)(4), all HIV CD4 T-lymphocyte test results and all HIV viral load detection test results, detectable and nondetectable, shall be reported to the department of health through a department designed reporting system that uses a nonname based code and contains no patient identifying information. These reports may be used by the department to improve the clinical progress of patients through contact with their physicians, and to use the aggregate information collected to develop and improve prevention programs and create better access to care.</p>
§ 23-6-13	<p>Informed consent form</p> <p>The written informed consent form shall include at least the following:</p> <ol style="list-style-type: none"> (1) The name and signature of the party(s) seeking and consenting to the HIV test; (2) The name and nature of the test; (3) The reasons for conducting the test; (4) The fact that the test results shall remain confidential except as required by law; and (5) Explanation of how test results will affect the tested person's ability to obtain services from the party requesting the test, or those for whom he or she is acting.
§ 23-6-14	<p>Exceptions</p> <p>Notwithstanding the provisions of §§ 23-6-12 and 23-6-13, a physician or other health care provider may draw blood and secure a test for the presence of HIV without informed consent under the following conditions:</p> <ol style="list-style-type: none"> (1) When the person to be tested is under one year of age; (2) When the person to be tested is between one and thirteen (13) years of age and appears to be symptomatic for HIV;

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	<p>(3) When the person to be tested is a minor under the care and authority of the department of children, youth, and families, and the director of that department certifies that an HIV test is necessary to secure health or human services for that person;</p> <p>(4) When a person (the complainant) can document significant exposure to blood or other bodily fluids of another person (the individual to be tested), during the performance of the complainant's occupation, providing:</p> <ul style="list-style-type: none"> (i) The complainant completes an incident report within forty-eight (48) hours of the exposure, identifying the parties to the exposure, witnesses, time, place, and nature of the event; (ii) The complainant submits to a baseline HIV test and is negative on that test for the presence of HIV, within seventy-two (72) hours of the exposure; and (iii) There has been a significant percutaneous or mucus membrane exposure, i.e., needlestick, bite, splash over open wound, broken skin, or mucus membrane, by blood or bodily fluids of the person to be tested of a type and in sufficient concentration to permit transmission of HIV if present in those fluids; and (iv) If a sample of the patient's blood is not otherwise available and the patient refuses to grant informed consent, then the complainant may petition the superior court for a court order mandating that the test be performed. <p>(5) In a licensed health care facility or in the private office of a physician in the event that an occupational health representative or physician, registered nurse practitioner, physician assistant, or nurse-midwife not directly involved in the exposure, determines that a health care provider, other than one in a supervisory position to the person making the determination had a significant exposure to the blood and/or body fluids of a patient and the patient or the patient's guardian refuses to grant consent for an HIV test to determine whether the patient has HIV, then, if a sample of the patient's blood is available, that blood shall be tested for HIV.</p> <ul style="list-style-type: none"> (ii) If a sample of the patient's blood is not otherwise available and the patient refuses to grant informed consent, then the health care worker may petition the superior court for a court order mandating that the test be performed. (iii) Before a patient or a sample of the patient's blood is required to undergo an HIV test, the health care provider must submit to a baseline HIV test within seventy-two (72) hours of the exposure. (iv) No person who determines that a health care worker has sustained a significant exposure and authorizes the HIV testing of a patient, nor any person or health care facility who acts in good faith and recommends the test be performed, shall have any liability as a result of their actions carried out under this chapter, unless those persons are proven to have acted in bad faith.

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	<p>(6) In an emergency, where due to a grave medical or psychiatric condition, it is impossible to obtain consent from the patient or the patient's parent, guardian, or agent.</p> <p>(7) As permitted under §§ 23-18.6.1-14(c) and (d) (organ transplant), 23-1-38 (sperm donation), and 23-8-1.1 (person under eighteen (18) years may give consent for testing for communicable diseases).</p> <p>(8) Mandatory testing for human immunodeficiency virus (HIV) conducted pursuant to §§ 42-56-37 (testing at ACI), 11-34-10 (prostitution), and 21-28-4.20 (IDU and needles).</p>
§ 23-6-15	<p>Reasonable effort to secure consent</p> <p>No involuntary testing for HIV shall take place under any of the exceptions set forth in § 23-6-14 until reasonable efforts have been made to secure voluntary informed consent.</p>
§ 23-6-16	<p>Due process – Right to bring suit.</p> <p>Nothing in §§ 23-6-10 – 23-6-24 shall be construed to limit or deprive any person of his or her right to due process of law, or to bar an action for relief and/or damages before a court of competent jurisdiction.</p>
§ 23-6-17	<p>Confidentiality</p> <p>(a) It is unlawful for any person to disclose to a third party the results of an individual's HIV test without the prior written consent of that individual, or in the case of a minor, the minor's parent, guardian, or agent, on a form that specifically states that HIV test results may be released, except:</p> <p>(1) A licensed laboratory or other health care facility which performs HIV tests shall report test results to a patient's licensed physician or other medical personnel who requested the test, and to the director of the department of health, pursuant to rules and regulations adopted for that purpose.</p> <p>(2) A physician:</p> <p>(i) May enter HIV test results in the medical record, as would be the case with any other diagnostic test;</p> <p>(ii) May notify other health professionals directly involved in the care of the individual testing positive on the HIV test, or to whom that individual is referred for treatment;</p> <p>(iii) May notify persons exposed to blood or other body fluids of an individual who tests positive for HIV, pursuant to § 23-6-14(4) through (8) (exceptions) and § 23-17-31 (testing of hospitalized patients);</p> <p>(iv) May notify the director of the department of children, youth, and families, pursuant to § 23-6-14(3) (testing of a minor to secure services);</p>

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	<p>and</p> <p>(v) May inform third parties with whom an HIV-infected patient is in close and continuous exposure related contact, including but not limited to a spouse and/or partner, if the nature of the contact, in the physician's opinion, poses a clear and present danger of HIV transmission to the third party, and if the physician has reason to believe that the patient, despite the physician's strong encouragement, has not and will not inform the third party that they may have been exposed to HIV;</p> <p>(3) As permitted in subsections (b)(1), (2), (5), (6), (8), (9), (10), (11), (12), (13), (14), and (15) of § 5-37.3-4 (confidentiality of health care information) and § 40.1-5-26 (disclosure of confidential information under mental health law), or as otherwise required by law.</p> <p>(4) By a health care provider to appropriate persons entitled to receive notification of persons with infectious or communicable diseases pursuant to §§ 23-5-9 (report of infectious disease upon death) and 23-28.36-3 (notification to EMT, firefighter, police officer of infectious disease).</p> <p>(b) Facilities and other health care providers subject to this section will have documentation that each person with access to any confidential information understands and acknowledges that the information may not be disclosed except as provided herein. The director shall establish protocols for collecting, maintaining and transferring the information (and ultimately destroying the information) to ensure the integrity of the transfer, and, if possible, the director may suspend any transfer, even to CDC, if he or she is not confident that the transfer is secure.</p>
§ 23-6-18	<p>Protection of records</p> <p>(a) Providers of health care, public health officials, and any other person who maintains records containing information on HIV test results of individuals are responsible for maintaining full confidentiality of these data, as provided in § 23-6-17, and shall take appropriate steps for their protection, including:</p> <p>(1) Keeping records secure at all times and establishing adequate confidentiality safeguards for any records electronically stored;</p> <p>(2) Establishing and enforcing reasonable rules limiting access to these records; and</p> <p>(3) Training persons who handle records in security objectives and technique.</p> <p>(b) The department shall evaluate reports of HIV/AIDS for completeness and potential referrals for service. All case reports shall be kept in a confidential and secure setting. An HIV/AIDS policy and protocol for security shall be developed and implemented by the department for this purpose.</p>

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	<p>(1) The department shall evaluate its procedures for HIV/AIDS reporting on a continuous basis for timeliness, completeness of reporting, and security of confidential information.</p> <p>(2) The department's protocol shall be in accordance with the recommendations of the December 10, 1999 Morbidity and Mortality Weekly Report Recommendations and Reports, "CDC Guidelines for National Human Immunodeficiency Virus Case Surveillance, including monitoring for Human Immunodeficiency Virus infection and Acquired Immunodeficiency Syndrome" document, or its successor document, that pertains to patient records and confidentiality; provided, however, that in no event shall the protocol be less protective than that required by state law.</p> <p>(3) All reports and notifications made pursuant to this section shall be confidential and protected from release except under the provisions of this law. Any person aggrieved by a violation of this section shall have a right of action in the superior court and may recover for each violation:</p> <p>(i) Against any person who negligently violates a provision of this section, damages of one thousand dollars (\$1,000) or actual damages, whichever is greater.</p> <p>(ii) Against any person who intentionally or recklessly violates a provision of this section, damages of five thousand dollars (\$5,000) or actual damages, whichever is greater.</p> <p>(iii) Reasonable attorneys' fees;</p> <p>(iv) Such other relief, including an injunction, as the court may deem appropriate; and</p> <p>(v) Any action under this section is barred unless the action is commenced within three (3) years after the cause of action accrues. A cause of action shall accrue when the injured party becomes aware of an unauthorized disclosure.</p>
§ 23-6-19	<p>Penalties and remedies.</p> <p>The penalties and remedies contained in § 5-37.3-9 shall apply to violations of §§ 23-6-17 and 23-6-18.</p>
§ 23-6-20	<p>Notification of disclosure</p> <p>In all cases when an individual's HIV test results are disclosed to a third party, other than a person involved in the care and treatment of the individual, and except as permitted by subsections (a)(1), (a)(2)(i), (a)(2)(ii), (a)(2)(iv), or (a)(4) of § 23-6-17 (permitted disclosures re: confidentiality), and permitted by and disclosed in accordance with the Federal Health Insurance Portability and Accountability Act of 1996 (Public law 104-191) enacted on August 21, 1996 and as thereafter amended, the person so disclosing shall make reasonable efforts to inform that individual</p>

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	<p>in advance of:</p> <ul style="list-style-type: none"> (1) The nature and purpose of the disclosure; (2) The date of disclosure; (3) The recipient of the disclosed information.
§ 23-6-21	<p>Protection of public health.</p> <p>Nothing contained in §§ 23-6-10 – 23-6-24 shall bar the director of health from exercising the authority and responsibilities conferred on him or her by law in protecting the public health.</p>
§ 23-6-22	<p>Discrimination prohibited</p> <p>No person, agency, organization, or corporate body may discriminate against a person on the basis of a positive HIV test result, or perception of a positive test, in housing, employment, the granting of credit, public accommodation, or delivery of services, nor shall an HIV test be required as a condition of employment, except where nondiscrimination can be shown, on the testimony of competent medical authorities, to constitute a clear and present danger of HIV transmission to others.</p>
§ 23-6-23	<p>Administrative relief</p> <p>Any person who believes that he or she has been unlawfully discriminated against in housing, employment, the granting of credit, public accommodations, or delivery of services on the basis of a positive HIV test, or perception of a positive test, may bring action for administrative relief before the Rhode Island human rights commission; and that commission may hear the matter and grant relief in those cases.</p>
§ 23-6-24	<p>Insurance exemption</p> <p>a) Sections 23-6-10 – 23-6-23 do not apply to the offering or sale of life insurance in Rhode Island; provided, however, that any insurance company offering or selling life insurance within Rhode Island that requires an individual to be tested for infection with human immunodeficiency virus (HIV) or any other identified causative agent of HIV for purposes of determining insurability shall: (1) give that individual prior written notice of those requirements, and (2) proceed with that testing only upon the written authorization of the individual or in the event the individual is a minor, the individual's parent or guardian. Notwithstanding anything in §§ 23-6-10 – 23-6-23 to the contrary, life insurance companies offering or selling life insurance in Rhode Island may otherwise obtain or disclose HIV test results in accordance with § 23-6-17(3). Nothing in this chapter prohibits that company from collecting data for statistical purposes, so long as the insured is not identified. However, nothing in this section shall be construed to permit that insurance company to cancel or refuse to renew a life insurance policy that by its terms has not lapsed on the basis of a positive HIV test</p>

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	<p>result.</p> <p>(b) "Health benefits" include accident and sickness, including disability or health insurance, health benefit plans and/or policies, hospital, health, or medical service plans, or any health maintenance organization plan pursuant to title 27 or otherwise.</p> <p>(2) The provisions of §§ 23-6-10 – 23-6-23 apply to the offer or sale of health benefits in this state by any company regulated under the laws of this state, including, but not limited to, title 27 and chapter 62 of title 42; provided, however, §§ 23-6-10 – 23-6-23 do not apply to the following:</p> <p>(i) Individual health benefit policies;</p> <p>(ii) Small group health benefits plans, i.e., groups having fewer than twenty-five (25) employees eligible to participate in an employer sponsored plan, or, in the case of non-employer groups, a group having fewer than twenty-five (25) employees;</p> <p>(iii) Late entrants into any group health benefits plan, regardless of the size of the group. A late entrant shall be defined as any individual who does not enroll into a health plan when first eligible under the plan, but who later seeks coverage under the group plan;</p> <p>(iv) Where an individual seeks to become eligible for an amount of group disability income benefit, which benefit would be in excess of the insurer's non-medical maximum as defined under the group plan.</p> <p>(3) Any company offering or selling health benefits in this state and regulated under the laws of this state that requires an individual to be tested for infection with HIV or any other identified causative agent of HIV as permitted in paragraphs (2)(i) to (iv) for purposes of determining insurability shall: (i) give that individual prior written notice of those requirements, and (ii) proceed with that testing only upon the written authorization of the individual, or in the event the individual is a minor, the individual's parent or guardian. Notwithstanding anything in this chapter to the contrary, companies offering or selling health benefits in this state may otherwise obtain or disclose HIV test results in accordance with § 23-6-17(a)(3). Nothing in this chapter shall prohibit that company from collecting data for statistical purposes so long as the insured's name is not identified.</p> <p>(4) Nothing in this chapter shall be construed to permit any company that offers or sells health benefits in this state to cancel or refuse to renew a health benefit, which has not by its terms lapsed, on the basis of a positive HIV test result.</p> <p>(c) There is established a commission to develop and recommend to the legislature a risk pool plan under which all insurers issuing health insurance in the state shall participate and share a proportion of the risk and cost of insuring people with HIV.</p>

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	<p>(2) The commission consists of eleven (11) members; three (3) of whom shall be members of the house of representatives, not more than two (2) from the same political party, to be appointed by the speaker of the house; two (2) of whom shall be members of the senate, not more than one of whom shall be from the same political party, to be appointed by the president of the senate; one of whom shall be the director of the department of health, or his or her designee; one of whom shall be the director of the department of business regulation, or his or her designee; two (2) of whom shall be representatives of the insurance community, to be appointed by the governor; and two (2) of whom shall be representatives of AIDS project Rhode Island, to be appointed by the governor.</p> <p>(3) The commission shall meet at the call of the speaker.</p>
§ 23-6-25	<p>Alternative test sites</p> <p>The department of health shall maintain sites for providing both anonymous and confidential HIV testing, and HIV counseling and referral. Each site, funded by the department of health, shall offer free testing, counseling and referral for indigent parties and other individuals without health insurance, offer a sliding scale for payment for all other individuals and, in the case of confidential testing, screen for ability to pay through a third-party insurer. In the case of nonfunded sites for HIV testing, organizations and/or institutions performing the test shall offer free testing, counseling and referral for indigent parties and other individuals without health insurance.</p>
§ 23-6-26	<p>Laboratory analysis for HIV</p> <p>(a) HIV/AIDS is regarded to cause significant morbidity and mortality, can be screened, diagnosed and treated, and is of major public health concern, such that surveillance of the disease occurrence is in the public interest, and therefore shall be designated as notifiable and reportable by name.</p> <p>(b) Under this provision the following shall be reported:</p> <p>(1) A diagnosis of HIV, according to the U.S. Centers for Disease Control and Prevention case definition of HIV.</p> <p>(2) A diagnosis of AIDS, according to the U.S. Centers for Disease Control and Prevention case definition of AIDS.</p> <p>(3) A positive ELIZA result of any HIV test and/or other FDA approved test indicative of the presence of HIV.</p> <p>(4) CD4 T-lymphocyte test results <200 mg/dl and/or fourteen percent (14%).</p> <p>(5) A perinatal exposure of a newborn to HIV indicated by two (2) positive PCR tests; <18 months; and/or other U.S. Food and Drug</p>

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	<p>Administration approved tests that indicate the presence of HIV in pediatric cases.</p> <p>(6) Other U.S. Food and Drug Administration approved tests indicative of the presence of HIV/AIDS, as approved by the department.</p> <p>(c) All biological samples or specimens taken from Rhode Island residents for the purpose of performing laboratory analysis for the detection of antibody to human immunodeficiency virus (HIV), by or under the direction or order of any physician licensed to practice medicine in this state, or on order of any duly licensed health care provider shall be sent to the Rhode Island department of health laboratory for analysis. This provision shall not apply to those HIV tests performed in a hospital laboratory. Hospitals shall forward all positive HIV test results to the department of health. The department of health laboratory shall conduct all confirmatory testing for HIV/AIDS; exceptions, for alternative testing methods, may be granted through written approval by the department of health.</p> <p>(d) Except in the case of anonymous testing, a physician or laboratory or duly licensed health care provider providing samples or specimens for HIV-testing, or results of HIV tests to the department, shall include the name of the patient.</p> <p>(e) Any HIV cases reported in the previous code based system, shall remain in a code based data set. The department of health shall only use and require HIV name case reports submitted after the enactment of this law.</p> <p>(f) In addition to, and separate from, the requirement of subdivision 23-6-26(b)(4), all HIV CD4 T-lymphocyte test results and all HIV viral load detection test results, detectable and nondetectable, shall be reported to the department of health through a department designed reporting system that uses a nonname based code and contains no patient identifying information. These reports may be used by the department to improve the clinical progress of patients through contact with their physicians, and to use the aggregate information collected to develop and improve prevention programs and create better access to care.</p>
§ 23-6-27	<p>Reporting of HIV/AIDS and perinatal exposure of newborns.</p> <p>(a) The following persons shall report information required by this section to the department's HIV/AIDS surveillance team:</p> <p>(1) A physician/health care provider who diagnoses or treats HIV/AIDS;</p> <p>(2) The administrator of a health care facility as defined in Rhode Island general laws chapter 23-17 who diagnoses or treats HIV/AIDS; or</p> <p>(3) The administrator of a prison in which there is an HIV/AIDS infected person or perinatal exposure to HIV/AIDS.</p>

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	<p>Reports provided under this section shall specify the infected person's name, as well as all information required on the official department HIV Case Report Form.</p> <p>(b) Any high managerial agent who is responsible for the administration of a clinical or hospital laboratory, blood bank, mobile unit, or other facility in which a laboratory examination of any specimen derived from a human body yields serological, or other evidence of HIV/AIDS, including perinatal exposure to HIV/AIDS shall notify the department in a timely manner as stipulated in the rules promulgated by the department. Reports provided under this section shall specify the name as well as all information indicated on the official department HIV Case Report Form.</p> <p>(c) Reports as required by this section shall only be made if confirmed with a Western Blot or other FDA approved confirmatory test.</p> <p>(1) All facilities obtaining blood from human donors for the purpose of transfusion or manufacture of blood products shall report HIV/AIDS consistent with this section.</p> <p>(2) Any laboratory that processes specimens shall permit the department to examine the records of said laboratory, facility, or office in order to evaluate compliance with this section.</p> <p>(d) Perinatal HIV/AIDS exposure reporting shall be made to the department regardless of confirmatory testing.</p> <p>(e) Reports required by this section shall be mailed within forty-eight (48) hours of diagnosis or treatment, to the department using a designated envelope that shall be provided by the department's HIV/AIDS Surveillance Team. Any other reporting method shall be approved in advance by the department.</p> <p>(f) Nothing in this section shall preclude the performance of anonymous HIV/AIDS testing.</p>
§ 23-8-1.1	<p>Consent to testing and treatment -- Reportable -- Communicable diseases</p> <p>Persons under eighteen (18) years of age may give legal consent for testing, examination, and/or treatment for any reportable communicable disease.</p>
§ 23-11-17	<p>Human immunodeficiency virus (HIV) testing</p> <p>(a)(1) The physician or health care provider attending any person for a suspected sexually transmitted disease shall offer testing for human immunodeficiency virus (HIV). All testing pursuant to this section shall be performed in accordance with §§ 23-6-17 (confidentiality) and 23-6-18 (protection of the medical record) and the informed consent standards</p>

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	<p>contained in chapter 6 of title 23.</p> <p>(2) Each person tested and counseled shall be provided with an "informed consent form" as provided by subsection 23-6-11(3), and shall specifically be given the opportunity to decline or opt-out of testing, which he or she shall sign and date in acknowledgment of his/her election to be tested.</p> <p>(b) In the event an individual consents to anonymous testing and tests positive for HIV, the HIV testing counselor shall provide the client an informed consent form as provided by subsection 23-6-11(3). If an individual is tested anonymously and is found positive on the initial screening test or during a post-test consultation, the counselor shall discuss, with the client, options regarding referrals and reporting of this positive screening, including the necessity of accessing a physician. The department of health shall maintain sites for providing both anonymous and confidential HIV testing, and HIV counseling and referral. Each site, funded by the department of health, shall offer free testing, counseling and referral for indigent parties and other individuals without health insurance, offer a sliding scale for payment for all other individuals and, in the case of confidential testing, screen, for ability to pay through a third-party insurer. In the case of nonfunded sites for HIV testing, organizations and/or institutions performing the test shall offer free testing, counseling and referral for indigent parties and other individuals without health insurance.</p> <p>(c) All persons tested under this section shall be counseled and tested in accordance with regulations promulgated by the department of health; provided, however, that the counseling shall be in accordance with acceptable medical standards, and no test results shall be given by any means (e.g. phone, mail, e-mail, fax, etc.) other than in person. Counselors for HIV counseling, testing and referral must undergo training given by the department of health to become a qualified professional counselor.</p>
§ 23-11-19	<p>Exchange of hypodermic needles and syringes</p> <p>(a) The director of the department of health shall maintain a program offering the free exchange of new hypodermic needles and syringes for used hypodermic needles and syringes as a means to prevent the transmission of human immunodeficiency virus (HIV) among intravenous drug users eighteen (18) years of age or older. Any site used in the program shall make available educational materials, HIV counseling and testing, and referral services targeted to the education of AIDS transmission and drug abuse prevention and treatment. Any individual(s) who either administers or participates in the program shall be immune from criminal prosecution for violating the provisions of § 21-28.5-1(a)(11) [deleted], unless the individual(s) is found to have in his or her possession hypodermic needles and syringes that are not a part of the exchange program.</p> <p>(b) Any program of needle and syringe exchange must be implemented</p>

RI Title 23 Code §	Code Language
	pursuant to the provisions of this section and shall incorporate an on-going evaluation plan to determine the impact of the needle exchange program on the participants and the community in the efforts to lower the HIV rate among injecting users including successful referrals to substance abuse treatment.
§ 23-13-19	<p>Human immunodeficiency virus (HIV) testing</p> <p>(a) Every physician or health care provider attending any person for prenatal care or family planning services shall include HIV screening in these settings so as to promote earlier detection of HIV with unrecognized or no identified risk factors. HIV testing shall be included in the routine panel of prenatal tests for all pregnant women unless testing is declined. Repeat testing in the third trimester is recommended if determined by the physician.</p> <p>(b) No person shall order the performance of an HIV-related test without first providing the information and counseling set forth in subsection 23-13-19(c), informing the woman that she has a right to decline testing, and obtaining the oral consent of the patient to be tested, or of a person authorized to consent to health care for such individual, which consent and counseling shall be documented in the patient's medical records.</p> <p>(c) Prior to performing an HIV-related test, patients shall be provided pre-test counseling. To allow greater flexibility for pre-test counseling by allowing client-specific counseling, a physician or health care provider may tailor HIV counseling to best meet the needs of the individual to be tested. Decisions concerning tailoring and the extent of pre-test counseling shall be made on a case-by-base basis, but in no even shall a woman be tested for HIV pursuant to this section without being provided with oral or written information that includes the following:</p> <ol style="list-style-type: none"> (1) an explanation of HIV infection; (2) a description of the interventions that can reduce HIV transmission from mother to infant; (3) the meaning of positive and negative test results; (4) an opportunity to ask questions. <p>The department of health shall provide appropriate health care providers with the written information, in multiple languages, required in subsections (1), (2), and (3) herein.</p> <p>(d) No physician or health care professional providing prenatal health services to a pregnant woman shall perform an HIV test of any woman who has not given consent to testing.</p> <p>(e) In the event that a pregnant woman tests positive for HIV/AIDS, the physician, health care provider or counselor shall provide post-test counseling, which shall include information about:</p> <ol style="list-style-type: none"> (1) the meaning of the test result; (2) the possible need for additional testing; (3) measures to prevent the transmission of HIV;

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	<p>(4) measures to prevent perinatal HIV transmission; and (5) the availability of , and referrals for, appropriate health care services, including mental health care and appropriate social and support service.</p> <p>(f) All HIV testing pursuant to this section shall be kept confidential in accordance with section 23-6-17.</p> <p>(g) No physician or health care provider shall discriminate against a woman because she is HIV positive or has declined to take an HIV test.</p> <p>(h) In the event an individual consents to anonymous testing and tests positive for HIV, the HIV testing counselor shall discuss with the client options regarding referrals and reporting of this positive screening, including the necessity of accessing a physician. The department of health shall maintain sites for providing both anonymous and confidential HIV testing, and HIV counseling and referral, Each site, funded by the department of health, shall offer free testing, counseling and referral for indigent parties and other individuals without health insurance, offer a sliding scale for payment for all other individuals and, in the case of confidential testing, screen for ability to pay through a third-party insurer. In the cases of nonfunded sites for HIV testing, organizations an/or institutions performing the test shall offer free testing, counseling and referral for indigent parties and other individuals without health insurance.</p> <p>(i) All persons tested under this section shall be counseled and tested in accordance with regulations promulgated by the department of health.</p>
§ 23-17-31	<p>Human immunodeficiency virus (HIV) testing -- Hospitals</p> <p>(a) Hospital patients in any hospital licensed under this chapter shall be offered testing for human immunodeficiency virus (HIV) unless excluded by regulations developed by the department of health, or unless the test is deemed inappropriate by a physician caring for the patient and so noted in the person's medical record. All testing pursuant to this section shall be performed in accordance with §§ 23-6-12 and 23-6-13. The identity of the individuals tested under this section shall be maintained only at the hospital site where the sample is drawn, and shall not be released except as provided by statute. Each person who is offered a test and counseling shall be provided with an "informed consent form" which he or she shall sign and date in acknowledgment of the offer.</p> <p>(b) The department of health is responsible for reasonable costs associated with performing and reporting the results of the HIV tests.</p> <p>(c) All persons tested under this section shall be provided pretest and post-test counseling, and the department of health shall define in regulation the nature and scope of the counseling. The counseling shall be in accordance with acceptable medical standards.</p> <p>(d) The department of health will either provide or pay for all pretest and</p>

RI Title 23 Code §	Code Language
	post-test counseling. It will negotiate with the hospitals concerning incremental costs associated with pretest and post-test counseling and will provide reasonable reimbursement of these costs or provide the services themselves in the case of post-test counseling.
§ 23-17-31.1	<p>Human immunodeficiency virus (HIV) testing -- Facilities for drug abusers [also listed under Title 40.1 as §40.1-24-20]</p> <p>(a) Every physician or health care provider attending any person for any service offered at a facility for intravenous drug users, shall offer testing for human immunodeficiency virus (HIV) unless deemed inappropriate by the physician. All testing pursuant to this section shall be performed in accordance with §§ 23-6-17 and 23-6-18, except where federal confidentiality laws may supersede. The identity of the individuals tested under this section shall be maintained only at the site where the sample is drawn, and shall not be released except as otherwise provided by the statute.</p> <p>(b) Each person who is offered a test and counseling shall be provided with an "AIDS testing and notification form" which he or she shall sign and date in acknowledgement of the offer.</p> <p>(c) The department of health shall be responsible for reasonable costs associated with performing and reporting the results of the HIV tests, including the costs of pretest and post-test counseling. The reasonable costs shall be negotiated and specified by contract.</p> <p>(d) All persons tested under this section shall be provided pretest and post-test counseling in accordance with regulations adopted by the department of health. The counseling shall be in accordance with acceptable medical standards.</p>
§ 23-18.6-12	<p>Acquired immune deficiency syndrome testing</p> <p>Prior to any organ, tissue, or part of a human body being transplanted in any human being, the donor shall be tested for the presence of antibodies to the probable causative agent for acquired immune deficiency syndrome (AIDS), provided that this condition shall not apply if there is a bona fide documentable medical emergency which endangers the life of any person. If the test for the presence of the antibodies is positive, the organ, tissue, or body part shall not be used.</p>

Title 40.1: Mental Health, Retardation, and Hospitals
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RI Title 40.1 Code §	Code Language
§ 40.1-24-20	<p>Human immunodeficiency virus (HIV) testing – Facilities for drug users.</p> <p>(a) Every physician or health care provider attending any person for any service offered at a facility for intravenous drug users, shall offer testing for human immunodeficiency virus (HIV). All testing pursuant to this section shall be performed in accordance with §§ 23-6-17 (confidentiality) and 23-6-18 (protection of medical records) and the informed consent standards contained in chapter 6 of title 23, except where federal confidentiality laws may supercede.</p> <p>(b) Each person tested and counseled shall first be provided with an "informed consent form" as provided by subsection 23-6-11(3), which he/she shall sign and date, and shall specifically be given the opportunity to decline or opt-out of the testing.</p> <p>(c) In the event an individual consents to anonymous testing and tests positive for HIV, the HIV testing counselor shall discuss with the client options regarding referrals and reporting of this positive screening, including the necessity of accessing a physician.</p> <p>(d) The department of health shall assist providers with performing and reporting the results of the HIV tests.</p> <p>(e) The department of health shall maintain sites for providing both anonymous and confidential HIV testing, and HIV counseling and referral. Each site, funded by the department of health, shall offer free testing, counseling and referral for indigent parties and other individuals without health insurance, offer a sliding scale for payment for all other individuals and, in the case of confidential testing, screen for ability to pay through a third-party insurer. In the case of nonfunded sites for HIV testing, organizations and/or institutions performing the test shall offer free testing, counseling and referral for indigent parties and other individuals without health insurance.</p> <p>(f) All persons tested under this section shall be counseled and tested in accordance with regulations promulgated by the department of health.</p>

Title 41: Sports, Racing, and Athletics

RI Title 41 Code §	Code Language
§ 41-5-11.1	Drug and H.I.V. testing. All contestants in a professional boxing or professional kickboxing match shall submit to drug and H.I.V. testing under such rules and regulations and for such drugs as the division of racing and athletics shall prescribe. The costs of the drug testing shall be paid by the contestant and/or promoter for the boxing or kickboxing match.

Title 42: State Affairs and Government

RI Title 42 Code §	Code Language
§ 42-56-37	<p>Human Immunodeficiency Virus (HIV) testing</p> <p>(a) Every person who is committed to the adult correctional institution to answer for any criminal offense, after conviction, is required to be tested for human immunodeficiency virus (HIV). No consent for this test is required from the person being tested, nor is this test subject to waiver. In addition, periodic testing for HIV, including testing at the time of release and when deemed appropriate by a physician, is required. No consent on the part of the person being tested is required.</p> <p>(b) All inmates shall be provided appropriate pretest and post-test counseling in accordance with accepted medical standards. Inmates who develop AIDS or AIDS related complex are entitled to all reasonable medical treatment available for their illness. No inmate shall be punished, segregated, or denied recreation privileges solely on the basis of a positive test result. However, the health care services division of the department of corrections shall, not later than September 1, 1998, adopt and put into effect reasonable rules and steps to protect the confidentiality of the HIV test results, in accordance with § 23-6-17 and to prevent persons testing positive for HIV from infecting other inmates and/or correctional staff. If any person, including any member of the correctional staff at the state department of corrections, is assaulted or comes into contact with bodily fluid from an inmate or detainee, a department of corrections physician will incorporate accepted medical standards and determine whether the incident places the exposed person at risk for HIV or any other blood borne disease. This may involve drawing a serum sample on the source inmate or detainee in accordance with § 23-6-14 and performing tests to determine the presence of blood borne infections such as HIV or hepatitis virus. The physician will immediately inform the exposed person of the medical assessment of risk, which will take into account the serostatus of the source inmate or detainee, and will provide for emergency medical care, according to accepted medical standards.</p> <p>(c) The department of corrections shall institute a comprehensive HIV education and drug treatment program for inmates and staff at all of its facilities. The educational program for correctional staff shall be inservice, fully reimbursable to the employee, and mandatory and shall be given periodically in collaboration with the department of health. The department of corrections shall make easily accessible personal protective equipment for correctional personnel to be used in the event of administering cardiac or respiratory resuscitation.</p>

Rhode Island Rules and Regulations – Rules and Regulations Pertaining to HIV Counseling, Testing, Reporting, and Confidentiality

RI RR	Code Language
R23-6-HIV Section 1	<p>1.1 "Agent" means (i) A person empowered by the patient/client to assert or to waive the confidentiality, or to disclose or consent to the disclosure of confidential information, as established by Chapter 5-37.3. That person is not, except by explicit authorization, empowered to waive confidentiality or to disclose or consent to the disclosure of confidential information; (ii) A guardian or conservator, if the person whose right to confidentiality is protected under Chapter 5-37.3 is incompetent to assert or waive that right; or (iii) If the patient/client is deceased, his or her personal representative or, in the absence of that representative, his or her heirs-at-law.</p> <p>1.2 "AIDS" means the medical condition known as Acquired Immunodeficiency Syndrome, caused by infection of an individual with HIV.</p> <p>1.3 "Anonymous HIV testing" means an HIV test that does not require the patient's name or signature on the consent form.</p> <p>1.4 "Confidential HIV testing" means an HIV test that does require the patient's name and signature on the consent form.</p> <p>1.5 "Department" means the Rhode Island Department of Health.</p> <p>1.6 "Diagnosis of AIDS" means a diagnosis in adolescents and adults who are HIV infected aged greater than or equal to thirteen (13) years who have either a) less than 200 CD4positive T-lymphocytes/uL; b) a CD4positive T-lymphocyte percentage of total lymphocytes of less than 14%; or c) any of the following three clinical conditions: pulmonary tuberculosis, recurrent pneumonia, or invasive cervical cancer. This expanded definition retains the twenty-three {23} clinical conditions in the AIDS surveillance case definition published in 1987. (Please refer to the Department's "Adult/HIV Confidential Case Report Form" for a list of those conditions).</p> <p>1.7 "Diagnosis of HIV" means the revised surveillance case definition for HIV infection published in the <i>Morbidity and Mortality Weekly Review</i> of reference 19 herein.</p> <p>1.8 "Duly licensed health care provider" means a licensed health professional working within his/her scope of practice.</p> <p>1.9 "ELISA result" means Enzyme-Linked Immunosorbent Assay or EIA (Enzyme Immunoassay) which is a serological technique used in immunology to detect the presence of either antibody or antigen. It is a useful tool for determining serum antibody concentrations such as with Human Immunodeficiency Virus (HIV). It is highly sensitive and specific test but its sole purpose is for screening not</p>

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	<p>for diagnostic or confirmation of infection with HIV.</p> <p>1.10 "Health care facility" means those facilities subject to licensure by the Department in accordance with the provisions of Chapter 23-17 of the General Laws of Rhode Island, as amended, entitled, "Licensing of Health Care Facilities", and as further defined in regulations.</p> <p>1.11 "HIV" means the human immunodeficiency virus, the pathogenic organism responsible for the acquired immunodeficiency syndrome (AIDS).</p> <p>1.12 "HIV CD4 T-lymphocyte test results" means results of any currently medically accepted test used to count CD 4 T-lymphocyte cells in blood in an HIV infected person.</p> <p>1.13 "HIV informed consent form" means a standardized form provided by the Department to those individuals offered HIV testing. Said form shall contain the information outlined in section 3.3 herein. Anonymous testing shall be exempted from the requirement to sign.</p> <p>1.14 "HIV test" means any currently medically accepted diagnostic test for determining infection of an individual by HIV.</p> <p>1.15 "HIV viral load detection test results" means results of any currently medically accepted test used to measure the amount of HIV in blood.</p> <p>1.16 "Occupational health representative" means an individual, within a health care facility, trained to respond to occupational, particularly blood borne, exposures.</p> <p>1.17 "Opt out", as used herein, means to decline HIV testing.</p> <p>1.18 "Perinatal HIV/AIDS exposure reporting" means filing a report, with the Department, for a child aged less than eighteen (18) months born to an HIV-infected mother, and the child does not meet the criteria for HIV infection (II) or the criteria for "not infected with HIV" (III) contained in reference 19 herein.</p> <p>1.19 "Person" means any individual, firm, partnership, corporation, company, association, or joint stock association, state or political subdivision or instrumentality of a state.</p> <p>1.20 "Physician" means an individual licensed to practice allopathic or osteopathic medicine pursuant to the provisions of Chapter 5-37 of the Rhode Island General Laws, as amended.</p> <p>1.21 "Qualified professional counselor" means physicians, physician assistants, licensed professional (registered) and/or practical nurses, nurse-midwives, registered nurse practitioners, medical students who are actively matriculating in a medical degree program who perform duties assigned to them by a physician, or other persons who are</p>

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	<p>involved with clients at risk for HIV and who have completed an HIV counseling training program sponsored by the Department or who have documented evidence of completion of an HIV counseling training program approved by the Department.</p> <p>1.22 "Routinely", as used herein, shall have the same meaning as "universally."</p> <p>1.23 "Services" means health care and social support services.</p>
R23-6-HIV Section 2.1	<p>Mandatory Offering of HIV Counseling and Testing</p> <p>Pursuant to sections 23-17-31, 23-13-19, 40.1-24-20, and 23-11-17 of the Rhode Island General Laws, as amended, the mandatory offering of HIV counseling and testing (with informed consent) shall be required in conjunction with the following:</p> <ul style="list-style-type: none"> a) Services or treatment for sexually transmitted diseases (STDs); b) Clinical services for injecting drug users unless such test is deemed inappropriate by a physician or duly licensed health care provider caring for the patient. c) Every physician or duly licensed health care provider attending any person for prenatal care or family planning services shall include HIV screening in these settings so as to promote earlier detection of HIV with unrecognized or no identified risk factors. d) HIV testing shall be included in the routine panel of prenatal tests for all pregnant women unless testing is declined. Repeat testing in the third trimester is recommended if determined by the physician or duly licensed health care provider. e) A physician or duly licensed health care provider attending to any person who may be at risk for HIV infection shall routinely offer the HIV test to those patients. All testing pursuant to this section shall be performed in accordance with sections 23-6-17 (confidentiality) and 23-6-18 (protection of the medical record) of the Rhode Island General Laws, as amended, and all applicable informed consent standards.
R23-6-HIV Section 2.2	<p>Mandatory HIV Counseling and Testing</p> <p>No person shall order the performance of an HIV-related test without first providing the information and counseling set forth in section 2.3 (below), informing the woman that she has a right to decline testing, and obtaining the oral consent of the patient to be tested, or of a person authorized to</p>

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	consent to health care for such individual, which consent and counseling shall be documented in the patient's medical record..
R23-6-HIV Section 2.3	<p>Mandatory HIV Counseling and Testing</p> <p>Prior to performing an HIV-related test, patients shall be provided pre-test counseling. To allow greater flexibility for pre-test counseling by allowing client-specific counseling, a physician or health care provider may tailor HIV counseling to best meet the needs of the individual to be tested. Decisions concerning tailoring and the extent of pre-test counseling shall be made on a case-by-case basis, but in no event shall a woman be tested for HIV pursuant to this section without being provided with oral or written information that includes the following:</p> <ul style="list-style-type: none"> a) an explanation of HIV infection; b) a description of the interventions that can reduce HIV transmission from mother to infant; c) the meaning of positive and negative test results; d) an opportunity to ask questions.
R23-6-HIV Section 2.4	<p>Mandatory HIV Counseling and Testing</p> <p>No physician or health care professional providing prenatal health services to a pregnant woman shall perform an HIV test of any woman who has not given consent to testing.</p>
R23-6-HIV Section 2.5	<p>Mandatory HIV Counseling and Testing</p> <p>In the event that a pregnant woman tests positive for HIV/AIDS, the physician, health care provider or counselor shall provide post-test counseling, which shall include information about:</p> <ul style="list-style-type: none"> a) the meaning of the test result; b) the possible need for additional testing; c) measures to prevent the transmission of HIV; d) measures to prevent perinatal HIV transmission; and e) the availability of, and referrals for, appropriate health care services, including mental health care, and appropriate social and support services.
R23-6-HIV Section 2.6	<p>Mandatory HIV Counseling and Testing</p> <p>All HIV testing pursuant to this section shall be kept confidential in accordance with section 23-6-17 of the Rhode Island General Laws, as amended, and all applicable state and federal statutes and regulations.</p>
R23-6-HIV Section 2.7	<p>Mandatory HIV Counseling and Testing</p> <p>No physician or health care provider shall discriminate against a woman because she is HIV positive or has declined to take an HIV test.</p>
R23-6-HIV Section 2.8	<p>Mandatory HIV Counseling and Testing</p> <p>All persons tested under this section shall be counseled and tested in accordance with these regulations. Provided, however, that the</p>

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	counseling shall be in accordance with acceptable medical standards, and no test results shall be given by any means (e.g. phone, mail, e-mail, fax, etc.) other than in person. Counselors for HIV counseling, testing and referral must undergo training given by the Department to become a qualified professional counselor.
R23-6-HIV Section 2.9	<p>Mandatory HIV Counseling and Testing</p> <p>Pursuant to statutory provisions, mandatory HIV counseling and testing shall be required as below. No consent shall be required for testing.</p> <p>a) For any person who is convicted of any criminal offense and committed to the Adult Correctional Institution (ACI);</p> <p>b) Any person convicted of possession of any controlled substance that has been administered with a hypodermic instrument, retractable hypodermic syringe, needle, or any similar instrument adapted for the administration of drugs shall be required to be tested for human immunodeficiency virus (HIV).</p> <p>c) For any person convicted of prostitution, lewdness, or any other violation of Chapter 11-34 of the Rhode Island General Laws, as amended.</p>
R23-6-HIV Section 2.10	<p>Mandatory HIV Counseling and Testing</p> <p>All persons tested under this section shall be provided pre-test and post-test counseling by individuals trained by the Department, as an HIV testing counselor, in accordance with regulations promulgated herein; provided, that the counseling shall be in accordance with acceptable medical standards.</p>
R23-6-HIV Section 2.11	<p>Mandatory HIV Counseling and Testing</p> <p>All persons who are tested under this section, who are determined to be injecting drug users, shall be referred to appropriate sources of substance abuse treatment by the HIV testing counselor and/or the attending practitioner as follows:</p> <p>a) Those persons who test positive for HIV infection shall be given priority for those outpatient substance abuse treatment programs that are sponsored or supported by the appropriate state agency responsible for these services.</p> <p>b) Those persons who are injecting drug users and test negative for HIV infection shall be referred, by the HIV testing counselor and/or attending practitioner, to the appropriate state agency responsible for these services for earliest possible evaluation and treatment.</p>
R23-6-HIV Section 2.12	<p>Mandatory HIV Testing</p> <p>Mandatory HIV testing, and counseling, as appropriate, shall be performed in accordance with the following:</p>

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	<p>a) All human organ transplantation testing shall be conducted in accordance with 42 Code of Federal Regulations Part 486, Subpart G (Guidelines for Preventing Transmission of HIV through Transplantation of Human Tissue and Organs) for the prevention of HIV transmission.</p> <p>b) Therapeutic donor insemination or other advanced reproductive technologies using freshly donated sperm shall conform with the guidelines and standards of the American Society for Reproductive Medicine for the prevention of HIV transmission. These standards shall not apply in situations wherein both the donor and the recipient waive the testing requirement and sign a written statement to that effect. Mandatory HIV counseling shall be required in these situations, however.</p>
R23-6-HIV Section 3.1	<p>Procedure for Offering HIV Test Presenting the HIV Informational Brochure</p> <p>Each patient/client subject to the provisions of section 2.1 herein, shall be given an informational brochure ("Answers to...Questions You May Have About the HIV Antibody Test" contained in Appendix "A" herein) on HIV infection and testing provided by the Department. Such brochure shall include the information contained in section 3.3 herein (below).</p>
R23-6-HIV Section 3.2	<p>Pre-Test Counseling</p> <p>A physician or other qualified professional counselor shall offer HIV information contained in the HIV informational brochure prior to testing. HIV prevention counseling should be:</p> <ul style="list-style-type: none"> · client-centered, that is, tailored to the behaviors, circumstances, and special needs of the person being served; · include a personalized client risk assessment, as appropriate; · result in a personalized plan for the client to reduce the risk of HIV infection/transmission, as appropriate.
R23-6-HIV Section 3.3	<p>Signing the HIV Informed Consent Form</p> <p>Each patient/client, with the exception of anonymous testing, shall sign and date the "HIV INFORMED CONSENT FORM" provided by the Department, which shall contain no less than the following:</p> <ul style="list-style-type: none"> a) the public health rationale for HIV testing and information describing the nature of the HIV disease; b) the availability and cost of HIV testing and counseling; c) assurance that test results are confidential with certain exceptions; d) a list of exceptions to confidentiality of test results; and e) That the test is voluntary and that an informed consent form must be signed before testing;

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	<p>f) assurance that by signing such form the person is only acknowledging that the HIV test and counseling have been offered and/or that he or she has declined (opted-out) the offer to be tested; and</p>
R23-6-HIV Section 3.4	<p>Signing the HIV Informed Consent Form</p> <p>Notwithstanding the provisions of subsections e) and f) above, in the event an individual consents to anonymous testing, the HIV testing counselor and/or attending practitioner ordering the test shall receive only verbal confirmation from the client that the client understands all applicable information contained within the informed consent form.</p>
R23-6-HIV Section 3.5	<p>Signing the HIV Informed Consent Form</p> <p>In the event an individual consents to anonymous testing and tests positive for HIV, the HIV testing counselor shall discuss with the client options regarding referrals and reporting of this positive screening, including the necessity of accessing a physician or duly licensed health care provider.</p>
R23-6-HIV Section 3.6	<p>Signing the HIV Informed Consent Form</p> <p>With the exception of anonymous testing, when a patient/client has agreed (consented) to be tested for HIV, an "Informed Consent Form" must be signed by the patient/client, in accordance with section 4.0 hereunder in order for the testing to occur.</p>
R23-6-HIV Section 3.7	<p>Signing the HIV Informed Consent Form</p> <p>Each site that provides anonymous and/or confidential HIV testing, and HIV counseling and referral, shall offer free testing, counseling and referral for indigent parties and other individuals without health insurance, offer a sliding scale for payment for all other individuals and, in the case of confidential testing, screen for ability to pay through a third-party insurer. In the case of nonfunded sites for HIV testing, organizations and/or institutions performing the test shall offer free testing, counseling and referral for indigent parties and other individuals without health insurance.</p>
R23-6-HIV Section 4.0	<p>Informed Consent For Testing</p> <p>4.1 Unless otherwise exempt as set forth in section 5.0 herein, no person may be tested for the presence of HIV unless he or she has given his or her written informed consent, confirmed by his or her signature, or that of a parent, guardian, or agent on an informed consent form specifically relating to such test and after discussion with a qualified professional counselor.</p> <p>4.2 Only verbal informed consent is required for anonymous testing.</p> <p>4.3 The written informed consent form shall include the information contained in section 3.3 herein (above).</p> <p>4.4 All consent forms, signed and dated, must become part of the patient's/client's record.</p>

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R23-6-HIV Section 5.0	<p data-bbox="418 237 1161 268">Exceptions to the Informed Consent Requirement</p> <p data-bbox="418 300 1435 426">A physician may or other duly licensed health care provider may secure a test sample for the presence of HIV without consent under the conditions listed below. Provided, however, reasonable efforts shall be made to secure voluntary consent.</p> <ul style="list-style-type: none"> <li data-bbox="475 457 1304 489">a) when the person to be tested is under one (1) year of age; <li data-bbox="475 520 1409 583">b) when the person to be tested is between one (1) and thirteen (13) years of age and appears to be symptomatic for HIV infection; <li data-bbox="475 615 1435 741">c) when the person to be tested is a minor under the care and authority of the Rhode Island Department for Children, Youth, and Families, and the Director of said Department certifies that an HIV test is necessary to secure health or human services for that person; <li data-bbox="475 772 1352 909">d) when a person (the complainant) can document significant exposure to blood or other body fluids of another person (the individual to be tested), during performance of the complainant's occupation, providing: <ul style="list-style-type: none"> <li data-bbox="524 940 1417 1035">i. the complainant completes an incident report within forty-eight (48) hours of the exposure, identifying the parties to the exposure, witnesses, time, place and nature of the event; <li data-bbox="524 1066 1393 1161">ii. the complainant submits to a baseline HIV test within seventy-two (72) hours of the exposure, and is negative on that test for the presence of HIV; <li data-bbox="524 1192 1425 1350">iii. there has been a significant percutaneous or mucus membrane exposure (i.e., needle stick; bite; splash over open wound, broken skin, or such membrane) by blood or body fluids of the person to be tested; of a type and in sufficient concentration to permit transmission of HIV, if present in those fluids; and <li data-bbox="524 1381 1409 1518">iv. If a sample of the patient's blood is not otherwise available and the patient refuses to grant informed consent, then the complainant may petition the Superior Court for a court order mandating that the test be performed. <li data-bbox="475 1549 1393 1900">e) In a licensed health care facility, (including hospitals), or in the private office of a physician in the event that an occupational health representative or physician, registered nurse practitioner, physician assistant, or nurse-midwife not directly involved in the exposure determines that a health care provider (health worker or other individual), other than one in a supervisory position to the person making the determination had a significant exposure to the blood and/or body fluids of a patient and the patient or the patient's guardian refuses to grant consent for an HIV test to determine whether the patient is infected with HIV; then, if a sample of the patient's blood is available, said blood shall be tested for the HIV:

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	<p>i. If a sample of the patient's blood is not otherwise available and the patient refuses to grant informed consent, then the health care worker may petition the Superior Court for a court order mandating that the test be performed.</p> <p>ii. Before a patient or a sample of the patient's blood is required to undergo an HIV test, the health care provider (health worker or other individual) must submit to a baseline HIV test within seventy-two (72) hours of the exposure.</p> <p>iii. No person who determines that a health care worker has sustained a significant exposure and authorizes the HIV testing of a patient, nor any person or health care facility (including hospitals) who acts in good faith, and recommends the test be performed, shall have any liability as a result of their actions carried out under the provisions of the Act of reference 1, unless such person(s) are proven to have acted in bad faith.</p> <p>f) In an emergency, where due to a grave medical or psychiatric condition, it is impossible to obtain consent from either the patient or the patient's parent, guardian or agent.</p> <p>g) Persons under 18 years of age who may give legal consent for testing, examination, and/or treatment for HIV pursuant to section 23-8-1.1 of the Rhode Island General Laws, as amended; or for human organ transplantation, therapeutic donor insemination or other advanced reproductive technologies using freshly donated sperm pursuant to section 23-1-38 of the Rhode Island General Laws, as amended.</p> <p>h) When a mother's medical record lacks documentation of HIV status, a newborn shall be tested for HIV immediately after birth and without the consent of the parents.</p>
R23-6-HIV Section 6.0	<p>HIV Testing</p> <p>6.1 Recommendations regarding HIV testing shall reference the most current guidelines issued by the Centers for Disease Control and Prevention (CDC) pertaining to HIV Counseling, Testing and Referral of Adults, Adolescents and Pregnant Women. Provided, however, those guidelines shall be interpreted by the Department so as to best serve the clients and patients seeking HIV testing, and shall in no event be interpreted or implemented in a manner inconsistent with the minimum informed consent standards of Title 23 or other protections of state law.</p> <p>6.2 The recommendations shall emphasize that: (1) HIV screening is recommended in all health care settings, after the patient is informed, in accordance with all applicable informed consent standards, that HIV testing will be done unless the patient declines; (2) persons at high- risk for HIV infection should be screened for HIV at least annually, in accordance with all applicable informed</p>

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	<p>consent standards; and (3) only verbal informed consent is required for anonymous testing.</p> <p>6.3 HIV/AIDS shall be designated as notifiable and reportable by name.</p> <p>Under this provision the following shall be reported:</p> <ul style="list-style-type: none"> a) Within four (4) days using an official HIV/AIDS Department case reporting form, a diagnosis of HIV, according to the U.S. Centers for Disease Control and Prevention case definition of HIV. b) Within four (4) days using an official HIV/AIDS Department case reporting form, a diagnosis of AIDS, according to the U.S. Centers for Disease Control and Prevention case definition of AIDS. c) Written notification to the Department of a confirmed positive ELISA result of any HIV test and/or other FDA approved test indicative of the presence of HIV within four (4) days, by name. d) A perinatal exposure of a newborn to HIV indicated by two positive PCR tests; <18 months; and/or other U.S. Food and Drug Administration approved tests that indicate the presence of HIV in pediatric cases. e) Other U.S. Food and Drug Administration approved tests indicative of the presence of HIV/AIDS, as approved by the Department. <p>6.4 An HIV test shall be ordered by the physician or on order of any duly licensed health care provider, for those patients/clients who sign the informed consent form, and for those individuals who are subject to the provisions of section 5.0 herein.</p> <p>6.5 The blood sample shall be sent for HIV testing to the Department Laboratory or a Rhode Island-licensed hospital laboratory and shall be accompanied by a Health Department Laboratory form. The physician or other duly licensed health care provider who ordered the test shall complete all required fields of the Health Department Laboratory form.</p> <p>6.6 Hospitals shall forward all positive HIV test results to the Department.</p> <p>6.7 The Department of Health Laboratory shall conduct all confirmatory testing for HIV/AIDS; exceptions, for alternative testing methods, may be granted through written approval by the Department.</p> <p>6.8 Except in the case of anonymous testing, a physician or laboratory or duly licensed health care provider providing samples or</p>

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	<p>specimens for HIV-testing, or results of HIV tests to the Department, shall include the name of the patient.</p> <p>6.9 Any HIV cases reported in the previous code based system, shall remain in a code based data set. The Department shall only use and require HIV name case reports submitted on or after July 1, 2006.</p>
R23-6-HIV Section 7.0	<p>Qualifications for HIV Counselors</p> <p>A qualified professional counselor shall be any person as defined in section 1.21 herein.</p>
R23-6-HIV Section 8.0	<p>Pre-Test Counseling</p> <p>8.1 Pre-test counseling shall be offered to all those individuals who are subject to the provisions of section 2.0 herein and must be provided to all those who are tested. Such pre-test counseling shall be consistent with the provisions of section 3.2 herein.</p>
R23-6-HIV Section 9.0	<p>Individuals with Negative HIV Tests</p> <p>9.1 Each person with a negative HIV test shall be provided post-test counseling by the physician or by a qualified professional counselor as defined in section 1.21 herein. Such counseling shall consist of:</p> <ul style="list-style-type: none"> a) informing the patient/client of the test result, its implications and the importance of retesting for individuals at high risk; b) instructing the patient/client on the continuing necessity to take protective measures to avoid acquiring the infection. <p>Individuals with Positive HIV Test</p> <p>9.2 Each person with a positive HIV test shall be given post-test counseling by the physician or other qualified professional counselor. Such counseling shall consist of:</p> <ul style="list-style-type: none"> a) the test result(s); b) the infectious nature of the disease and measures to prevent transmission; c) referral to medical and social services; d) the importance of notifying his or her partner (see Department's website: http://www.health.ri.gov/hiv/index.php for partner contact referral form); and e) such other information to meet the individual's needs.

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R23-6-HIV Section 10.0	<p>Records</p> <p>10.1 Entries shall be made in the patient/client record of all services rendered, such as offering of test, test results, reporting, informed consent forms, counseling, etc.</p> <p>10.2 All forms and reports as required in accordance with these regulations shall be maintained in the patient's/client's record by health care providers (e.g., physicians, health care facilities), including copies of any of the forms and/or reports submitted by one health care provider to another as part of the plan of care and consistent with the requirements of reference 1 and the regulations herein.</p> <p>10.3 Providers of health care, public health officials, and any other person who maintain records containing information on HIV test results of individuals, shall be responsible for maintaining full confidentiality of these data as provided in section 23-6-17 of reference 1 and shall take appropriate steps for their protection, including:</p> <ul style="list-style-type: none"> a) keeping records secure at all times and establishing adequate confidentiality safeguards for any such records electronically stored; b) establishing and enforcing reasonable policies and procedures consistent with the confidentiality requirements herein; c) training individuals who handle records in security objectives and techniques.
R23-6-HIV Section 11.0	<p>Confidentiality and Disclosure of Test Results</p> <p>11.1 All information and reports pertaining to HIV counseling, testing, and reporting as set forth in these rules and regulations are confidential. It shall be unlawful for any person to disclose to a third party the results of an individual's HIV test without the prior written consent of that individual, or in the case of a minor, the minor's parent, guardian or agent on a form that specifically states that HIV tests results may be released, except:</p> <ul style="list-style-type: none"> a) a licensed health care facility or laboratory: <ul style="list-style-type: none"> i. shall report HIV test results to a licensed physician or other authorized medical personnel who ordered the test; and ii. shall report HIV test results to the Department as set forth in these regulations. b) a physician or duly licensed health care provider: <ul style="list-style-type: none"> i. may enter HIV test results in the medical record, as would be the case with any other diagnostic test; ii. may notify other health professionals directly involved in care of the individual testing positive on the HIV test, or to whom that individual is referred for treatment; iii. may notify persons exposed to blood or other body fluids of an individual who tests positive on an HIV test, in accordance with section 23-6-14 (4) through (8) (exceptions) of reference 1 and section 23-17-31 (testing of hospitalized patients) of reference 2; iv. may notify the Director of the Department for Children, Youth and Families, pursuant to section 23-6-14 (3) (testing of a minor to secure services) of reference 1;

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	<p>v. may inform third parties with whom an HIV-infected patient or client is in continuous exposure-related contact, including but not limited to a spouse and/or partner; if the nature of the contact, in the physician's opinion, poses a clear and present danger of HIV transmission to the third party; and if the physician has reason to believe that the patient, despite the physician's strong encouragement, has not and will not inform the third party that they may have been exposed to HIV;</p> <p>c) as permitted in subsections (b) (1), (2), (5), (6), (8) through (15) of section 5-37.3-4 of the "Confidentiality of Health Care Communications and Information Act," and</p> <p>d) as permitted in section 40.1-5-26 of the "Mental Health Law" (disclosure of confidential information under mental health law), or as otherwise required by law; and</p> <p>e) by a health care provider to appropriate persons entitled to receive notification of persons with infectious or communicable diseases pursuant to section 23-5-9 of the General Laws of Rhode Island, as amended, "Reports of Disease and Disability," , (report of infectious disease upon death) and section 23-28.36-3 of the General Laws of Rhode Island, as amended, "Notification of Fire Fighters, Police Officers, and Emergency Medical Technicians After Exposure to Infectious Diseases" (notification to EMT, firefighter, police officer of infectious disease).</p>
R23-6-HIV Section 12.0	<p>Notification of Disclosure</p> <p>12.1 In all cases when an individual's HIV test results are disclosed to a third party, other than a person involved in the care and treatment of the individual, and except as permitted in sections 11.1(a)(i), 11.1(a)(i)(ii), 11.1(b)(i), 11.1(b)(ii), 11.1(b)(iv), and 11.1(d) herein, (permitted disclosures re: confidentiality), and permitted by and disclosed in accordance with the federal Health Insurance Portability and Accountability Act of 1996 (Public Law 104-191) enacted on August 21, 1996 and as thereafter amended, the person so disclosing shall make reasonable efforts to inform the individual tested in advance of:</p> <p>a) the nature and purpose of the disclosure;</p> <p>b) the date of disclosure;</p> <p>c) the recipient of the disclosed information.</p>
R23-6-HIV Section 13.0	<p>HIV Testing and Reporting Cases of Acquired Immunodeficiency Syndrome (AIDS) and Human Deficiency Virus (HIV) Infection</p> <p>13.1 Physicians, facility administrators, and laboratories shall report to the Office of HIV & AIDS cases of AIDS and HIV infection in a manner prescribed in the <i>Rules and Regulations Pertaining to the Reporting of Communicable, Environmental and Occupational Diseases (R23-5-6, 10, 11, 23-24.6-CD/ERD and R23-24.5 ASB)</i> of reference 11 herein.</p> <p>Reporting of HIV/AIDS and Perinatal Exposure of Newborns</p> <p>13.2 The following persons shall report information required by this section to the Department's HIV/AIDS surveillance team:</p>

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	<p>a) a physician/health care provider who diagnoses or treats HIV/AIDS;</p> <p>b) The administrator of a health care facility as defined in Rhode Island General Laws Chapter 23-17 who diagnoses or treats HIV/AIDS; or</p> <p>c) the administrator of a prison in which there is an HIV/AIDS infected person or perinatal exposure to HIV/AIDS.</p> <p>13.3 Reports provided under this section shall specify the infected person's name, as well as all information required on the official Department HIV Case Report Form.</p> <p>13.4 Any high managerial agent who is responsible for the administration of a clinical or hospital laboratory, blood bank, mobile unit, or other facility in which a laboratory examination of any specimen derived from a human body yields serological, or other evidence of HIV/AIDS, including perinatal exposure to HIV/AIDS shall notify the Department in a timely manner as stipulated in the rules of reference 11 herein. Reports provided under this section shall specify the name as well as all information indicated on the official Department HIV Case Report Form.</p> <p>13.5 Reports as required by this section shall only be made if confirmed with a Western Blot or other FDA approved confirmatory test.</p> <p>a) All facilities obtaining blood from human donors for the purpose of transfusion or manufacture of blood products shall report HIV/AIDS consistent with this section.</p> <p>b) Any laboratory that processes specimens shall permit the Department to examine the records of said laboratory, facility, or office in order to evaluate compliance with this section.</p> <p>13.6 Perinatal HIV/AIDS exposure reporting shall be made to the Department regardless of confirmatory testing.</p> <p>13.7 Reports required by this section shall be mailed within forty-eight (48) hours of diagnosis or treatment, to the Department using a designated envelope that shall be provided by the Department's HIV/AIDS Surveillance Team. Any other reporting method shall be approved</p>
R23-6-HIV Section 14.0	<p>Violations and Remedies/Penalties</p> <p>14.1 General: any person who violates any provision of these regulations shall be subject to the criminal, civil and/or administrative penalties prescribed by law and/or regulation.</p> <p>14.2 Pertaining to Confidentiality: any person who violates the confidentiality provisions herein, shall be subject to the penalties of section 5-37.3-9 of reference 12 which are:</p> <p>a) Civil Penalties: any one who violates the confidentiality provisions herein may be held liable for actual and exemplary damages.</p> <p>b) Criminal Penalties: any one who intentionally and knowingly</p>

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	<p>violates the confidentiality provisions herein, shall, upon conviction, be fined not more than one thousand dollars (\$1,000.00) or imprisoned for not more than six (6) months, or both.</p> <p>c) Commission of Crime: the civil and criminal penalties above shall also be applicable to anyone who obtains confidential health care information through the commission of a crime.</p> <p>d) Attorney's Fees: attorney's fees may be awarded, at the discretion of the court, to the successful parties in any action under the confidentiality provisions herein.</p>
R23-6-HIV Section 15.0	<p>Severability</p> <p>15.1 If any provision of these regulations or the application thereof to any facility, individual or circumstances shall be held invalid, such invalidity shall not affect the provisions or application of the regulations which can be given effect, and to this end the provisions of the regulations are declared to be severable.</p>