

Colorado

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April 8, 2011

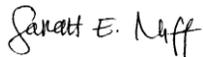
To the Reader:

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 updates and verification concurrent with all changes. We encourage readers to send updates (with citations when possible) and comments to Sarah Neff at neffs@nccc.ucsf.edu.

Thank you,



Sarah E. Neff, MPH
Director of Research and Evaluation

&



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: neffs@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>

Colorado

A Quick Reference Guide for Clinicians to Colorado HIV Testing Laws

April 8, 2011

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

Informed Consent

- Informed consent is required (see *State Policies Relating to HIV Testing, 2011*, below, for exceptions); oral or written not specified. Opt-in or opt-out process not specified. Compatible with CDC Recommendations and Guidelines

Counseling

- Post-test counseling is required with HIV positive test results.
- Counseling and testing sites must provide pre- and post-test prevention and risk-reduction counseling.
- Counseling must be offered in cases of health care worker exposure.

Provisos of Testing

- **Anonymous**
 - Testing must be made available anonymously.
 - Anonymous testing is available at designated anonymous testing sites.
- **Rapid**
 - No specific provisions regarding rapid testing were found.
- **Routine**
 - No specific provisions regarding routine testing were found.

Disclosure

- No specific provisions regarding the notification of partners or contacts were found.

Minor/Adolescent Testing

- Minors may consent to HIV testing and treatment.
- Physicians may, but are not required to, notify the parents of the HIV test result.

Colorado

Perinatal Quick Reference Guide:

A Guide to Colorado Perinatal HIV Testing Laws for Clinicians

April 8, 2011

This Perinatal Quick Reference Guide for clinicians is a summary of relevant Colorado 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 Colorado 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

- **Initial visit**
 - First trimester testing of pregnant women at the first professional visit is required by providers and is through the opt-out process (with documentation of declination in the medical record).
- **Third trimester**
 - No specific provisions regarding third trimester prenatal testing were found.

Labor & Delivery

- Testing of women, who have not been tested for HIV during pregnancy, entering a hospital for delivery is required and is through the opt-out process (with documentation of declination in the medical record).

Neonatal

- Report of whether or not testing on mother was conducted is required on the birth certificate, but the test results must not be reported.

Other

- N/A

Colorado State Policies Relating to HIV Testing, 2011

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Colorado Revised Statutes [CRS]

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Title 22: Education..... Page 16-17
Title 24: Government-State Administration..... Page 18
Title 25: Health Disease Control..... Pages 19-35

Code of Colorado Regulations [CCR]

CCR Series 1000: Department of Public Health and Environment..... Pages 36-40

	Policy Category	Type	Section Code(s)	
RESTRICTIONS/MANDATES	Restrictions on use of HIV test	No related laws found		
	Mandatory testing within the criminal justice system	Testing and treatment for all persons confined, detained, or imprisoned in any state, county, or city hospital, institution for mental illness, home for dependent children, reformatory or prison, private or charitable institution by order of court		CRS § 25-4-405
		Persons charged with or convicted of a sex offense		CRS § 18-3-415 CRS § 18-3-415.5
		Persons convicted of prostitution charges		CRS § 18-7-201.5
		Persons convicted of patronizing a prostitute		CRS § 18-7-205.5
		Second degree assault		CRS § 18-3-203
		Potential transmission to victims		CRS § 18-3-415
		Threats to public health		CRS § 25-4-1406 CRS § 25-4-1407
	Mandatory testing outside of the criminal justice system	Occupational exposure – health care worker, EMS, corrections		CRS § 25-4-1405
		Examination and treatment of threats to public health – persons reasonably suspected of infection		CRS § 25-4-402 CRS § 25-4-1406

PRE-TESTING	Mandatory offering of HIV/AIDS information and/or testing	Insurance companies must provide printed factual materials on HIV/AIDS before testing	CRS § 10-3-1104.5
		Department must offer voluntary HIV testing	CRS § 25-4-1405
		Department must prepare, for free distribution, printed information and instructions concerning the dangers of STIs, their prevention, and the necessity for treatment.	CRS § 25-4-408
		STI diagnosing/treating physicians must inform about the measures for preventing spread of the infection and the necessity for treatment	CRS § 25-4-408
		Public education and counseling on HIV must be provided by state	CRS § 25-4-1405
		Comprehensive health education in preschool-grade 12 education must include information regarding HIV	CRS § 22-25-103
	Informed consent	Informed consent required – not specified written vs. verbal	CRS § 25-4-1405(8)
		Exceptions to required consent	CRS § 25-4-1405
		At public health testing sites, a specified written consent form must be used.	6 CCR-1009-9
		Written informed consent required for insurance testing	CRS § 10-3-1104.5
	Counseling requirements	Public Health counseling and testing sites must provide pretest and posttest prevention and risk-reduction counseling	6 CCR-1009-9.7
At medical practices and settings, mandatory post-test counseling for HIV positive results		CRS § 25-4-1405	
Counseling must be offered in cases of occupational exposure		CRS § 25-4-1405	
Anonymous testing	State department of health must sponsor anonymous testing sites	CRS § 25-4-1405.5	
TEST	Disclosure/confidentiality	HIV test results as confidential	CRS § 25-4-1404
		Exceptions to confidentiality	CRS § 25-4-1404

			6 CCR-1009-9.4
		Penalties for unauthorized disclosure of HIV results	CRS § 10-3-1104.5
		Disclosure of HIV status of sex offender to victim	CRS §24-4.1-302.5 CRS § 24-4.1-303
	Reporting	Name-based reporting	CRS § 25-1-122 CRS § 25-4-1401 CRS § 25-4-1402 CRS § 25-4-1402.5 CRS § 25-4-1403 6 CCR-1009-9.1 6 CCR-1009-9.2
		Reports of infections must be made to the health authorities in accordance with CRS § 25-1-122 (1)	CRS § 25-4-402
OTHER	Testing of pregnant women and/or newborns	First trimester testing of pregnant women at the first professional visit – opt-out process with documentation of declination in medical record	CRS § 25-4-201
		Opt-out testing for untested pregnant women entering a hospital for delivery – documentation of declination in medical record	CRS § 25-4-201
		Must report on birth certificate whether HIV test on mother was done – must not report result of test	CRS § 25-4-201
	Testing of minors/adolescents	Minors may consent to HIV testing and treatment	CRS § 25-4-402 (4) CRS § 25-4-1405
		Provider may inform parent or guardian of consultation, examination, and treatment if minor is less than 16 years or un-emancipated	CRS § 25-4-1405
	Rapid HIV testing	No related laws found	
	Training and education of health care providers	Must complete program approved by CDPHE	CRS § 25-4-1405 CRS § 25-4-1408 6 CCR-1009-9.6

Recommended Resources

State of Colorado General Legislative Resources

This document is a product of the National HIV/AIDS Clinicians' Consultation Center at San Francisco General Hospital, UCSF.
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<http://www.nccc.ucsf.edu/>

http://www.state.co.us/gov_dir/leg_dir/lcsstaff/StaffInfo/geninfo.htm

Colorado Revised Statutes

<http://www2.michie.com/colorado/lpext.dll?f=templates&fn=fs-main.htm&2.0>

Colorado Rules and Regulations

<http://www.sos.state.co.us/CCR/Welcome.do>

Colorado State Department of Public Health and Environment

<http://www.cdphe.state.co.us/cdphehom.asp>

Title 10: Insurance

CO Title 10 Code §	Code Language
§ 10-3-1104	<p>Unfair methods of competition and unfair or deceptive acts or practices</p> <p>(1) The following are defined as unfair methods of competition and unfair or deceptive acts or practices in the business of insurance:</p> <p>(IX) Making adverse underwriting decisions because an applicant or an insured has demonstrated concerns related to AIDS by seeking counseling from health care professionals;</p>
§ 10-3-1104.5	<p>HIV testing - declaration - definitions - requirements for testing and limitations on disclosure of test results</p> <p>(1) The general assembly declares that a balance must be maintained between the need for information by those conducting the business of insurance and the public's need for fairness in practices for testing for the human immunodeficiency virus, including the need to minimize intrusion into an individual's privacy and the need to limit disclosure of the results of such testing.</p> <p>(2) As used in this section, unless the context otherwise requires:</p> <p>(a) "AIDS" means acquired immunodeficiency syndrome.</p> <p>(b) "Applicant" means the individual proposed for coverage.</p> <p>(c) "HIV" means human immunodeficiency virus.</p> <p>(d) "HIV infection" means infection with the human immunodeficiency virus or any other related virus identified as a probable causative agent of AIDS.</p> <p>(e) "HIV related test" means any laboratory test or series of tests for any virus, antibody, antigen, or etiologic agent whatsoever thought to cause or to indicate the presence of AIDS.</p> <p>(f) "Person" means any individual, corporation, association, partnership, fraternal benefit society, or any other entity engaged in the insurance business, except insurance agents and brokers. Such term shall also include medical service plans and hospital service plans regulated under parts 1 and 3 of article 16 of this title and health maintenance organizations regulated under parts 1 and 4 of article 16 of this title. Such plans and health maintenance organizations shall be deemed to be engaged in the business of insurance for purposes of this section.</p> <p>(3) No person shall request or require that an applicant submit to an HIV related test unless that person:</p> <p>(a) Obtains the applicant's prior written informed consent; and</p> <p>(b) Reveals, in the written consent form, and explains the use of the HIV related test result to the applicant and entities to whom test results may be disclosed pursuant to paragraphs (a) and (b) of subsection (4) of this section; and</p> <p>(c) Provides the applicant with:</p> <p>(I) Printed material prior to testing which contains factual information describing AIDS; its causes, symptoms, and transmission; and the tests used to detect HIV infection and what a person should do if the result of the HIV related test is positive; or</p> <p>(II) Information on how to obtain relevant counseling from a qualified</p>

CO Title 10 Code §	Code Language
	<p>practitioner having extensive training and experience in addressing the fears, questions, and concerns of persons tested for HIV infection; and</p> <p>(d) Administers the HIV related test based upon the following test protocol, as a minimum:</p> <p>(I) Two positive ELISA tests and a western blot test with bands present at p24, p31, and either gp41 or gp160; or</p> <p>(II) An equally reliable screening or confirmatory test protocol designated by the commissioner, with the approval of the department of public health and environment; and</p> <p>(e) Discloses the results of testing in the manner prescribed by subsection (4) of this section.</p> <p>(4) (a) On the basis of the applicant's written informed consent as specified in subsection (3) of this section, a person may disclose an individual applicant's HIV related test results to its reinsurers or to those contractually retained medical personnel, laboratories, and insurance affiliates, excluding agents and brokers, which are involved in underwriting decisions regarding the individual's application if disclosure is necessary to make underwriting decisions regarding such application.</p> <p>(b) Other than the disclosures permitted by paragraph (a) of this subsection (4), no person shall disclose HIV related test results which identify the individual applicant with the test results obtained to anyone without first obtaining separate written informed consent for such disclosure from the applicant; except that, if the result of the HIV related test of an applicant is positive or indeterminate, such person may report the test finding to the medical information bureau but only if a nonspecific blood test result code is used which does not indicate that the applicant was tested for HIV infection.</p> <p>(c) Nothing in this subsection (4) shall be construed to prohibit reporting as required by the provisions of sections 25-4-1402, 25-4-1403, and 25-4-1405 (8), C.R.S.</p> <p>(5) A person shall notify the applicant in writing of an adverse underwriting decision based upon the results of such applicant's blood test but shall not disclose the specific results of such blood test to such applicant. The person shall also inform the applicant that the results of the blood test will be sent to the physician designated by the applicant at the time of application and that such physician should be contacted for information regarding the HIV related test. If a physician was not designated at the time of application, the person shall request that the applicant name a physician to whom a copy of the blood test can be sent.</p> <p>(6) Notwithstanding any other provisions to the contrary, any person who fails to comply with all the provisions of this section regarding the disclosure of HIV related test results is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than five hundred dollars nor more than five thousand dollars, or by imprisonment in the county jail for not less than six months nor more than twenty-four months, or both such fine and imprisonment.</p>

Title 17: Corrections

CO Title 17 Code §	Code Language
§ 17-1-115.5	<p>Prison sexual assault prevention program</p> <p>(1) The Department shall develop, with respect to sexual assaults that occur in correctional facilities operated by or pursuant to a contract with the Department, policies and procedures to:</p> <ul style="list-style-type: none"> (a) Require disciplinary action for employees who fail to report incidences of sexual assault to the Inspector General appointed pursuant to section 17-1-103.8; (b) Require the Inspector General, after completing an investigation for sexual assault, to submit the findings to the District Attorney with jurisdiction over the facility in which the alleged sexual assault occurred; (c) Prohibit retaliation and disincentives for reporting sexual assaults; (d) Provide, in situations in which there is reason to believe that a sexual assault has occurred, reasonable and appropriate measures to ensure victim safety by separating the victim from the assailant, if known; (e) Ensure the confidentiality of prison rape complaints and protection of inmates who make complaints of prison rape; (f) Provide acute trauma care for sexual assault victims, including but not limited to treatment of injuries, HIV/AIDS prophylactic measures, and testing for sexually transmitted diseases; (g) Provide, at intake and periodically thereafter, Department-approved, easy-to-understand information developed by the Department on sexual assault prevention, treatment, reporting, and counseling in consultation with community groups with expertise in sexual assault prevention, treatment, reporting, and counseling; (h) Provide sexual-assault-specific training to Department mental health professionals and all employees who have direct contact with inmates regarding treatment and methods of prevention and investigation; (i) Provide confidential mental health counseling for victims of sexual assault; (j) Monitor victims of sexual assault for suicidal impulses, post-traumatic stress disorder, depression, and other mental health consequences resulting from the sexual assault; and (k) Require termination of an employee who engages in a sexual assault on or sexual conduct with an inmate consistent with constitutional due process protections and state personnel laws and rules. <p>(2) Investigation of a sexual assault shall be conducted by investigators trained in the investigation of sex crimes. The investigation shall include, but need not be limited to, use of forensic rape kits, questioning of suspects and witnesses, and gathering and preserving relevant evidence.</p> <p>(3) The Department shall annually report the data that it is required to compile and report to the federal bureau of justice as required by the federal "Prison Rape Elimination Act of 2003", Pub.L. 103-79, as amended, to the judiciary committees of the House of Representatives and the Senate, or any successor committees.</p>

Title 18: Criminal Code

CO Title 18 Code §	Code Language
§ 18-3-203	<p>Assault in the second degree.</p> <p>II) (A) Any adult or juvenile who is bound over for trial for the offense described in subparagraph (I) of this paragraph (f.5) subsequent to a preliminary hearing or after having waived the right to a preliminary hearing, any person who is indicted for or is convicted of any such offense, or any person who is determined to have provided blood, seminal fluid, urine, feces, saliva, mucus, or vomit to a person bound over for trial for, indicted for, or convicted of such an offense shall be ordered by the court to submit to a medical test for communicable diseases and to supply blood, feces, urine, saliva, or other bodily fluid required for the test. The results of such test shall be reported to the court or the court's designee, who shall then disclose the results to any victim of the offense who requests such disclosure.</p>
§ 18-3-401	<p>Definitions</p> <p>As used in this part 4, unless the context otherwise requires:</p> <p>(1) "Actor" means the person accused of a sexual offense pursuant to this part 4.</p> <p>(1.5) "Consent" means cooperation in act or attitude pursuant to an exercise of free will and with knowledge of the nature of the act. A current or previous relationship shall not be sufficient to constitute consent under the provisions of this part 4. Submission under the influence of fear shall not constitute consent. Nothing in this definition shall be construed to affect the admissibility of evidence or the burden of proof in regard to the issue of consent under this part 4.</p> <p>(1.7) "Diagnostic test" means a human immunodeficiency virus (HIV) screening test followed by a supplemental HIV test for confirmation in those instances when the HIV screening test is repeatedly reactive.</p> <p>(2) "Intimate parts" means the external genitalia or the perineum or the anus or the buttocks or the pubes or the breast of any person.</p> <p>(2.5) "Pattern of sexual abuse" means the commission of two or more incidents of sexual contact involving a child when such offenses are committed by an actor upon the same victim.</p> <p>(3) "Physically helpless" means unconscious, asleep, or otherwise unable to indicate willingness to act.</p> <p>(3.5) One in a "position of trust" includes, but is not limited to, any person who is a parent or acting in the place of a parent and charged with any of a parent's rights, duties, or responsibilities concerning a child, including a guardian or someone otherwise responsible for the general supervision of a</p>

CO Title 18 Code §	Code Language
	<p>child's welfare, or a person who is charged with any duty or responsibility for the health, education, welfare, or supervision of a child, including foster care, child care, family care, or institutional care, either independently or through another, no matter how brief, at the time of an unlawful act.</p> <p>(4) "Sexual contact" means the knowing touching of the victim's intimate parts by the actor, or of the actor's intimate parts by the victim, or the knowing touching of the clothing covering the immediate area of the victim's or actor's intimate parts if that sexual contact is for the purposes of sexual arousal, gratification, or abuse.</p> <p>(5) "Sexual intrusion" means any intrusion, however slight, by any object or any part of a person's body, except the mouth, tongue, or penis, into the genital or anal opening of another person's body if that sexual intrusion can reasonably be construed as being for the purposes of sexual arousal, gratification, or abuse.</p> <p>(6) "Sexual penetration" means sexual intercourse, cunnilingus, fellatio, anilingus, or anal intercourse. Emission need not be proved as an element of any sexual penetration. Any penetration, however slight, is sufficient to complete the crime.</p> <p>(7) "Victim" means the person alleging to have been subjected to a criminal sexual assault.</p>
§ 18-3-415	<p>Acquired immune deficiency syndrome testing for persons charged with any sexual offense</p> <p>Any adult or juvenile who is bound over for trial for any sexual offense involving sexual penetration as defined in section 18-3-401 (6), subsequent to a preliminary hearing or after having waived the right to a preliminary hearing, or any person who is indicted for or is convicted of any such offense, shall be ordered by the court to submit to a diagnostic test for the human immunodeficiency virus (HIV) that causes acquired immune deficiency syndrome, said diagnostic test to be ordered in conjunction with the diagnostic test ordered pursuant to section 18-3-415.5. The results of such diagnostic test shall be reported to the court or the court's designee, who shall then disclose the results to any victim of the sexual offense who requests such disclosure. Review and disclosure of diagnostic test results by the courts shall be closed and confidential, and any transaction records relating thereto shall also be closed and confidential. If the person who is bound over for trial or who is indicted for or convicted of any such offense voluntarily submits to a diagnostic test for the human immunodeficiency virus (HIV), the fact of such person's voluntary submission shall be admissible in mitigation of sentence if the person is convicted of the charged offense.</p>
§ 18-3-415.5	<p>Acquired immune deficiency syndrome testing for persons charged with certain sexual offenses - mandatory sentencing</p>

CO Title 18 Code §	Code Language
	<p>(1) For purposes of this section, "sexual offense" is limited to a sexual offense that consists of sexual penetration, as defined in section 18-3-401 (6), involving sexual intercourse or anal intercourse.</p> <p>(2) Any adult or juvenile who is bound over for trial subsequent to a preliminary hearing or after having waived the right to a preliminary hearing on a charge of committing a sexual offense shall be ordered by the court to submit to a diagnostic test for the human immunodeficiency virus (HIV) that causes acquired immune deficiency syndrome, said diagnostic test to be ordered in conjunction with the diagnostic test ordered pursuant to section 18-3-415. The results of said diagnostic test shall be reported to the district attorney. The district attorney shall keep the results of such diagnostic test strictly confidential, except for purposes of pleading and proving the mandatory sentencing provisions specified in subsection (5) of this section.</p> <p>(3) (a) If the person tested pursuant to subsection (2) of this section tests positive for the human immunodeficiency virus (HIV) that causes acquired immune deficiency syndrome, the district attorney may contact the state department of public health and environment or any county, district, or municipal public health agency to determine whether said person had been notified prior to the date of the offense for which the person has been bound over for trial that he or she tested positive for the human immunodeficiency virus (HIV) that causes acquired immune deficiency syndrome.</p> <p>(b) If the district attorney determines that the person tested pursuant to subsection (2) of this section had notice of his or her HIV infection prior to the date the offense was committed, the district attorney may file an indictment or information alleging such knowledge and seeking the mandatory sentencing provisions authorized in subsection (5) of this section. Any such allegation shall be kept confidential from the jury and under seal of court.</p> <p>(c) The state department of public health and environment or any county, district, or municipal public health agency shall provide documentary evidence limited to whether the person tested pursuant to subsection (2) of this section had notice of or had discussion concerning his or her HIV infection and the date of such notice or discussion. The parties may stipulate that the person identified in said documents as having notice or discussion of his or her HIV infection is the person tested pursuant to subsection (2) of this section. Such stipulation shall constitute conclusive proof that said person had notice of his or her HIV infection prior to committing the substantive offense, and the court shall sentence said person in accordance with subsection (5) of this section.</p> <p>(d) If the parties do not stipulate as provided in paragraph (c) of this subsection (3), an officer or employee of the state department of public health and environment or of the county, district, or municipal public health agency who has had contact with the person tested pursuant to subsection (2) of this section regarding his or her HIV infection and can identify said person shall provide, for purposes of pretrial preparation and in court proceedings, oral and documentary evidence limited to whether said person</p>

CO Title 18 Code §	Code Language
	<p>had notice of or had discussion concerning his or her HIV infection and the date of such notice or discussion. If the state department or the county, district, or municipal public health agency no longer employs an officer or employee who has had contact with the person tested pursuant to subsection (2) of this section regarding the person's HIV infection, the state department or the county, district, or municipal public health agency shall provide:</p> <p>(I) The names of and current addresses, if available, for each former officer or employee who had contact with the person tested pursuant to subsection (2) of this section regarding the person's HIV infection;</p> <p>(II) Documentary evidence concerning whether the person tested pursuant to subsection (2) of this section was provided notice of or had discussion concerning his or her HIV infection and the date of such notice or discussion; and</p> <p>(III) If none of said former officers or employees are available, any officer or employee who has knowledge regarding whether the person tested pursuant to subsection (2) of this section was provided notice of or had discussion concerning his or her HIV infection and the date of such notice or discussion. Said officer or employee shall provide such evidence for purposes of pretrial preparation and in court proceedings.</p> <p>(4) Nothing in this section shall be interpreted as abridging the confidentiality requirements imposed on the state department of public health and environment and the local county, district, or municipal public health agencies pursuant to part 14 of article 4 of title 25, C.R.S., with regard to any person or entity other than as specified in this section.</p> <p>(5) (a) If a verdict of guilty is returned on the substantive offense with which the person tested pursuant to subsection (2) of this section is charged, the court shall conduct a separate sentencing hearing as soon as practicable to determine whether said person had notice of his or her HIV infection prior to the date the offense was committed, as alleged. The sentencing hearing shall be conducted by the judge who presided at trial or before whom the guilty plea was entered or a replacement for said judge in the event he or she dies, resigns, is incapacitated, or is otherwise disqualified as provided in section 16-6-201, C.R.S. At the sentencing hearing, the district attorney shall have the burden of proving beyond a reasonable doubt that said person had notice of his or her HIV infection prior to the date the offense was committed, as alleged.</p> <p>(b) If the court determines that the person tested pursuant to subsection (2) of this section had notice of his or her HIV infection prior to the date the offense was committed, the judge shall sentence said person to a mandatory term of incarceration of at least three times the upper limit of the presumptive range for the level of offense committed, up to the remainder of the person's natural life, as provided in section 18-1.3-1004.</p>
§ 18-7-201.5	Acquired immune deficiency syndrome testing for persons convicted

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	<p>of prostitution</p> <p>(1) (a) Any person who is convicted of prostitution pursuant to section 18-7-201 or a comparable municipal ordinance shall be ordered by the court to submit to a diagnostic test for the human immunodeficiency virus (HIV) that causes acquired immune deficiency syndrome. The court shall order that such person shall pay the cost of such diagnostic test as a part of the costs of the action.</p> <p>(b) As used in this subsection (1), "diagnostic test" means a human immunodeficiency virus (HIV) screening test followed by a supplemental HIV test for confirmation in those instances when the HIV screening test is repeatedly reactive.</p> <p>(2) The results of any test performed pursuant to this section shall be reported to the person tested and to the district attorney or the municipal prosecuting attorney of the jurisdiction in which the person is prosecuted. The district attorney or municipal prosecuting attorney shall keep the results of such test strictly confidential unless the results of such test indicate the presence of the human immunodeficiency virus (HIV) that causes acquired immune deficiency syndrome and:</p> <p>(a) The person is subsequently charged with a violation of section 18-7-201.7 or 18-7-205.7; or</p> <p>(b) The person is subsequently charged with a violation of section 18-7-201 or 18-7-205 or a comparable municipal ordinance and the district attorney or municipal prosecuting attorney for the charging jurisdiction seeks the test results for purposes of case evaluation, charging, and sentencing. In such case, the district attorney or municipal prosecuting attorney who obtained the original conviction pursuant to section 18-7-201 or a comparable municipal ordinance may release the test results only to the district attorney or municipal prosecuting attorney in the charging jurisdiction or the said district attorney's or municipal prosecuting attorney's designee. Any district attorney or municipal prosecuting attorney who receives test results pursuant to this paragraph (b) shall keep said test results strictly confidential, except as provided in this subsection (2).</p> <p>(3) (a) The test ordered pursuant to subsection (1) of this section shall be performed by a facility that provides ongoing health care.</p> <p>(b) An employee of the facility that performs the test shall provide, for purposes of pretrial preparation and in court proceedings, oral and documentary evidence limited to whether the person tested pursuant to subsection (1) of this section and subsequently charged under section 18-7-201.7 or 18-7-205.7 was provided notice prior to the date of the offense that he or she had tested positive for the human immunodeficiency virus (HIV) that causes acquired immune deficiency syndrome and the date of such notice.</p>
§ 18-7-201.7	<p>Prostitution with knowledge of being infected with acquired immune deficiency syndrome</p> <p>(1) Any person who performs or offers or agrees to perform any act of</p>

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	<p>sexual intercourse, fellatio, cunnilingus, masturbation, or anal intercourse, as such terms are defined in section 18-7-201 (2), with any person not his spouse, in exchange for money or any other thing of value, and if such person has been tested for acquired immune deficiency syndrome pursuant to section 18-7-201.5 or 18-7-205.5 or otherwise, and the results of such test indicate the presence of the human immunodeficiency virus (HIV) which causes acquired immune deficiency syndrome, such person commits prostitution with knowledge of being infected with acquired immune deficiency syndrome.</p> <p>(2) Prostitution with knowledge of being infected with acquired immune deficiency syndrome is a class 5 felony.</p> <p>(3) (a) In sentencing any person convicted of prostitution with knowledge of being infected with acquired immune deficiency syndrome pursuant to this section, the court may order that such person submit to an assessment for the use of controlled substances or alcohol developed pursuant to section 16-11.5-102 (1) (a), C.R.S. The court may further order that such person comply with the recommendations of such assessment as part of any sentence to probation, county jail, community corrections, or incarceration with the department of corrections. The assessment and compliance with the recommendations of the assessment shall be at the person's own expense, unless the person is indigent.</p> <p>(b) In addition to treatment for abuse of controlled substances and alcohol, the court may require the person to participate in mental health treatment if such treatment is recommended in the person's presentence report prepared pursuant to section 16-11-102, C.R.S. The mental health treatment shall be at the person's own expense, unless the person is indigent.</p>
§ 18-7-205.5	<p>Acquired immune deficiency syndrome testing for persons convicted of patronizing a prostitute</p> <p>(1) (a) Any person who is convicted of patronizing a prostitute pursuant to section 18-7-205 or a comparable municipal ordinance shall be ordered by the court to submit to a diagnostic test for the human immunodeficiency virus (HIV) that causes acquired immune deficiency syndrome. The court shall order that such person shall pay the cost of such diagnostic test as a part of the costs of the action.</p> <p>(b) As used in this subsection (1), "diagnostic test" means a human immunodeficiency virus (HIV) screening test followed by a supplemental HIV test for confirmation in those instances when the HIV screening test is repeatedly reactive.</p> <p>(2) The results of any test performed pursuant to this section shall be reported to the person tested and to the district attorney or the municipal prosecuting attorney of the jurisdiction in which the person is prosecuted. The district attorney or the municipal prosecuting attorney shall keep the results of such test strictly confidential unless the results of such test indicate the presence of the human immunodeficiency virus (HIV) that</p>

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	<p>causes acquired immune deficiency syndrome and:</p> <p>(a) The person is subsequently charged with a violation of section 18-7-201.7 or 18-7-205.7; or</p> <p>(b) The person is subsequently charged with a violation of section 18-7-201 or 18-7-205 or a comparable municipal ordinance and the district attorney or the municipal prosecuting attorney for the charging jurisdiction seeks the test results for purposes of case evaluation, charging, and sentencing. In such case, the district attorney or municipal prosecuting attorney who obtained the original conviction pursuant to section 18-7-205 or a comparable municipal ordinance may release the test results only to the district attorney or municipal prosecuting attorney in the charging jurisdiction or the said district attorney's or municipal prosecuting attorney's designee. Any district attorney or municipal prosecuting attorney who receives test results pursuant to this paragraph (b) shall keep said test results strictly confidential, except as provided in this subsection (2).</p> <p>(3) (a) The test ordered pursuant to subsection (1) of this section shall be performed by a facility that provides ongoing health care.</p> <p>(b) An employee of the facility that performs the test shall provide, for purposes of pretrial preparation and in court proceedings, oral and documentary evidence limited to whether the person tested pursuant to subsection (1) of this section and subsequently charged under section 18-7-201.7 or 18-7-205.7 was provided notice prior to the date of the offense that he or she had tested positive for the human immunodeficiency virus (HIV) that causes acquired immune deficiency syndrome and the date of such notice.</p>
§ 18-7-205.7	<p>Patronizing a prostitute with knowledge of being infected with acquired immune deficiency syndrome</p> <p>(1) Any person who performs any of the acts described in section 18-7-205 (1), with any person not his spouse, and if such person has been tested for acquired immune deficiency syndrome pursuant to section 18-7-201.5 or 18-7-205.5 or otherwise, and the results of such test indicate the presence of the human immunodeficiency virus (HIV) which causes acquired immune deficiency syndrome, such person commits patronizing a prostitute with knowledge of being infected with acquired immune deficiency syndrome.</p> <p>(2) Patronizing a prostitute with knowledge of being infected with acquired immune deficiency syndrome is a class 6 felony.</p>

Title 19: Children's Code	
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CO Title 19 Code §	Code Language
§ 19-2-214	<p>Detention center sexual assault prevention program</p> <p>(1) The Division of Youth Corrections created in Section 19-2-203 shall develop, with respect to sexual assaults that occur in juvenile facilities, policies and procedures to:</p> <ul style="list-style-type: none"> (a) Require disciplinary action for employees who fail to report incidences of sexual assault to the Inspector General; (b) Require the Inspector General, after completing an investigation for sexual assault, to submit the findings to the District Attorney with jurisdiction over the facility in which the alleged sexual assault occurred; (c) Prohibit retaliation and disincentives for reporting sexual assaults; (d) Provide, in situations in which there is reason to believe that a sexual assault has occurred, reasonable and appropriate measures to ensure victim safety by separating the victim from the assailant, if known; (e) Ensure the confidentiality of prison rape complaints and protection of inmates who make complaints of prison rape; (f) Provide acute trauma care for sexual assault victims, including but not limited to treatment of injuries, HIV/AIDS prophylactic measures, and testing for sexually transmitted diseases; (g) Provide, at intake and periodically thereafter, Division-approved, easy-to-understand information developed by the Department on sexual assault prevention, treatment, reporting, and counseling in consultation with community groups with expertise in sexual assault prevention, treatment, reporting, and counseling; (h) Provide sexual-assault-specific training to Division mental health professionals and all employees who have direct contact with inmates regarding treatment and methods of prevention and investigation; (i) Provide confidential mental health counseling for victims of sexual assault; (j) Monitor victims of sexual assault for suicidal impulses, post-traumatic stress disorder, depression, and other mental health consequences resulting from the sexual assault; and (k) Require termination of an employee who engages in a sexual assault on or sexual conduct with a juvenile consistent with constitutional due process protections and state personnel laws and rules. <p>(2) Investigation of a sexual assault shall be conducted by investigators trained in the investigation of sex crimes. The investigation shall include, but need not be limited to, use of forensic rape kits, questioning of suspects and witnesses, and gathering and preserving relevant evidence.</p> <p>(3) The Department shall annually report the data that it is required to compile and report to the federal bureau of justice as required by the federal "Prison Rape Elimination Act of 2003", Pub.L. 103-79, as amended, to the judiciary committees of the House of Representatives and the Senate, or any successor committees.</p>

Title 22: Education	
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CO Title 22 Code §	Code Language
§ 22-25-103	<p>Definitions</p> <p>As used in this article, unless the context otherwise requires:</p> <p>(1) "Colorado comprehensive health education program" means the program created by section 22-25-104 (1) for the purpose of encouraging the teaching of comprehensive health education for the students of the schools in Colorado.</p> <p>(2) "Commissioner" means the office of the commissioner of education created and existing pursuant to section 1 of article IX of the state constitution.</p> <p>(3) "Comprehensive health education" means a planned, sequential health program of learning experiences in preschool, kindergarten, and grades one through twelve which shall include, but shall not be limited to, the following topics:</p> <ul style="list-style-type: none"> (a) Communicable diseases, including, but not limited to, acquired immune deficiency syndrome (AIDS) and human immunodeficiency virus (HIV) related illness; (b) Community and environmental health; (c) Consumer health; (d) Dental health; (e) Tobacco, alcohol, and other drug use; (f) Human growth and development; (g) Hereditary and developmental conditions; (h) Mental and emotional health; (i) Nutrition, personal health, and physical fitness; (j) Family life education; (k) Injury prevention, safety, motor vehicle safety, and emergency care; (l) High-risk behaviors and concerns; and (m) Age appropriate instruction on family roles and expectations, child development, and parenting. <p>(3.5) "Gang" means a group of three or more individuals with a common interest, bond, or activity characterized by criminal or delinquent conduct, engaged in either collectively or individually.</p> <p>(4) "High-risk behaviors" means actions by children and adolescents which present a danger to their physical or mental health or which may impede their ability to lead healthy and productive lives. "High-risk behaviors" includes, but is not limited to, dropping out of school, incest and other sexual activity with adults, sexual activity by school aged children, physical and mental abuse, violence, and use of tobacco, alcohol, or other drugs.</p> <p>(4.5) "Law-related education program" means an educational program for teaching nonlawyers about law, the legal system, and the fundamental principles and values on which our constitutional democracy is based,</p>

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	<p>which program's approach is characterized by relevant curriculum materials, interactive teaching strategies, and extensive use of community resource persons and experience.</p> <p>(5) "Local comprehensive health education program" means a health education program instituted by a school board or board of cooperative services in accordance with the requirements of this article.</p> <p>(6) "State board" means the state board of education created pursuant to section 1 of article IX of the state constitution.</p>

Title 24: Government-State Administration

CO Title 24 Code §	Code Language
§ 24-4.1-302.5	Rights afforded to victims (1) In order to preserve and protect a victim's rights to justice and due process, each victim of a crime shall have the following rights: (u) The right to be informed of the results of any HIV testing that is ordered and performed pursuant to section 18-3-415, C.R.S.
§ 24-4.1-303	Procedures for assuring rights of victims of crimes (14.3) The court or its designee, pursuant to section 18-3-415, C.R.S. , shall disclose the results of any HIV testing that is ordered and performed pursuant to section 18-3-415, C.R.S. , to any victim of a sexual offense in the case where such testing was ordered.

Title 25: Health Disease Control

CO Title 25 Code §	Code Language
§ 25-1-122	<p>Named reporting of certain diseases and conditions - access to medical records - confidentiality of reports and records</p> <p>(1) With respect to investigations of epidemic and communicable diseases, morbidity and mortality, cancer in connection with the statewide cancer registry, environmental and chronic diseases, sexually transmitted infections, tuberculosis, and rabies and mammal bites, the board has the authority to require reporting, without patient consent, of occurrences of those diseases and conditions by any person having knowledge of such to the state department of public health and environment and county, district, and municipal public health agencies, within their respective jurisdictions. Any required reports shall contain the name, address, age, sex, diagnosis, and such other relevant information as the board determines is necessary to protect the public health. The board shall set the manner, time period, and form in which such reports are to be made. The board may limit reporting for a specific disease or condition to a particular region or community or for a limited period of time. Nothing in this subsection (1) shall be construed to apply to cases of AIDS, HIV-related illness, or HIV infection, which shall be governed solely by the reporting requirements set forth in part 14 of article 4 of this title.</p> <p>(2) When investigating diseases and conditions pursuant to subsection (1) of this section, authorized personnel of the state department of public health and environment and county, district, and municipal public health agencies, within their respective jurisdictions, may, without patient consent, inspect, have access to, and obtain information from pertinent patient medical, coroner, and laboratory records in the custody of all medical practitioners, veterinarians, coroners, institutions, hospitals, agencies, laboratories, and clinics, whether public or private, which are relevant and necessary to the investigation. Review and inspection of records shall be conducted at reasonable times and with such notice as is reasonable under the circumstances. Under no circumstances may personnel of the state department of public health and environment or county, district, and municipal public health agencies, within their local jurisdictions, have access pursuant to this section to any medical record that is not pertinent, relevant, or necessary to the public health investigation. Nothing in this subsection (2) shall be construed to apply to cases of AIDS, HIV-related illness, or HIV infection, which shall be governed solely by the requirements relating to access to records and the release of information as set forth in part 14 of article 4 of this title.</p> <p>(3) Any report or disclosure made in good faith pursuant to subsection (1) or (2) of this section shall not constitute libel or slander or a violation of any right of privacy or privileged communication.</p> <p>(4) Reports and records resulting from the investigation of epidemic and communicable diseases, environmental and chronic diseases, reports of morbidity and mortality, reports of cancer in connection with the statewide</p>

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	<p>cancer registry, and reports and records resulting from the investigation of sexually transmitted infections, tuberculosis, and rabies and mammal bites held by the state department of public health and environment or county, district, and municipal public health agencies shall be strictly confidential. Such reports and records shall not be released, shared with any agency or institution, or made public, upon subpoena, search warrant, discovery proceedings, or otherwise, except under any of the following circumstances:</p> <p>(a) Release may be made of medical and epidemiological information in a manner such that no individual person can be identified.</p> <p>(b) Release may be made of medical and epidemiological information to the extent necessary for the treatment, control, investigation, and prevention of diseases and conditions dangerous to the public health; except that every effort shall be made to limit disclosure of personal identifying information to the minimal amount necessary to accomplish the public health purpose.</p> <p>(c) Release may be made to the person who is the subject of a medical record or report with written authorization from such person.</p> <p>(d) An officer or employee of the county, district, and municipal public health agency or the state department of public health and environment may make a report of child abuse to agencies responsible for receiving or investigating reports of child abuse or neglect in accordance with the applicable provisions of the "Child Protection Act of 1987" set forth in part 3 of article 3 of title 19, C.R.S. However, in the event a report is made by the state department of public health and environment, only the following information shall be included in the report:</p> <p>(I) The name, address, and sex of the child;</p> <p>(II) The name and address of the person responsible for the child;</p> <p>(III) The name and address of the person who is alleged to be responsible for the suspected abuse or neglect, if known; and</p> <p>(IV) The general nature of the child's injury.</p> <p>(e) Medical and epidemiological information may be released to a peace officer as described in section 16-2.5-101, C.R.S., the federal bureau of investigation, a federal law enforcement agency as designated by the United States attorney for the district of Colorado, or any prosecutor to the extent necessary for any investigation or prosecution related to bioterrorism; except that reasonable efforts shall be made to limit disclosure of personal identifying information to the minimal amount necessary to accomplish the law enforcement purpose. For purposes of this paragraph (e), "bioterrorism" means the intentional use of, attempted use of, conspiracy to use, or solicitation to use microorganisms or toxins of biological origin or chemical or radiological agents to cause death or disease among humans or animals.</p> <p>(5) No officer or employee or agent of the state department of public health and environment or county, district, and municipal public health agency shall be examined in any judicial, executive, legislative, or other proceeding as to the existence or content of any individual's report obtained by such department pursuant to subsection (1) or (2) of this section without that individual's consent. However, this provision shall not apply to individuals</p>

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	<p>who are under isolation or quarantine, school exclusion, or other restrictive action taken pursuant to section 25-1.5-102 (1) (c) or part 4, 5, 6, or 9 of article 4 of this title.</p> <p>(6) Any officer or employee or agent of the state department of public health and environment or county, district, and municipal public health agency who violates this section by releasing or making public confidential public health reports or records or by otherwise breaching the confidentiality requirements of subsection (4) or (5) of this section commits a class 1 misdemeanor and, upon conviction thereof, shall be punished as provided in section 18-1.3-501 (1), C.R.S.</p> <p>(7) Nothing in subsections (4) to (6) of this section shall apply to records and reports held by the state or local department of health pursuant to part 14 of article 4 of this title.</p> <p>(8) Pursuant to section 25-1-113, any person may seek judicial review of a decision of the board or of the department affecting such person under this section.</p> <p>(9) Notwithstanding any other provision of law to the contrary, the department shall administer the provisions of this section regardless of an individual's race, religion, gender, ethnicity, national origin, or immigration status.</p>
§ 25-1-801	<p>Patient records in custody of health care facility.</p> <p>(1)(d) Nothing in this section shall be construed to require a person responsible for the diagnosis or treatment of sexually transmitted infections or addiction to or use of drugs in the case of minors pursuant to sections 25-4-402 (4) and 13-22-102, C.R.S., to release patient records of such diagnosis or treatment to a parent, guardian, or person other than the minor or his or her designated representative.</p>
§ 25-1-802	<p>Patient records in custody of individual health care providers.</p> <p>(2) Nothing in this section shall be construed to require a person responsible for the diagnosis or treatment of sexually transmitted infections or addiction to or use of drugs in the case of minors pursuant to sections 25-4-402 (4) and 13-22-102, C.R.S., to release patient records of such diagnosis or treatment to a parent, guardian, or person other than the minor or his or her designated representative.</p>
§ 25-1-1202	<p>Index of statutory sections regarding medical record confidentiality and health information.</p> <p>(1) Statutory provisions concerning policies, procedures, and references to the release, sharing, and use of medical records and health information include the following:</p> <p>(qq) Section 25-1-122, concerning reporting of certain diseases and conditions for investigation of epidemic and communicable diseases,</p>

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	<p>morbidity and mortality, cancer in connection with the statewide cancer registry, environmental and chronic diseases, sexually transmitted infections, tuberculosis, and rabies and mammal bites by the department of public health and environment;</p> <p>(aaa) Section 25-4-402 (4), concerning the reporting of sexually transmitted infections;</p>
§ 25-4-201	<p>Pregnant woman to take blood test.</p> <p>(1) Every licensed health care provider authorized to provide care to a pregnant woman in this state for conditions relating to her pregnancy during the period of gestation or at delivery shall take or cause to be taken a sample of blood of the woman at the time of the first professional visit during the first trimester for testing pursuant to this section. The blood specimen obtained shall be submitted to an approved laboratory for a standard serological test for syphilis and HIV. Every other person permitted by law to attend pregnant women in this state but not permitted by law to take blood samples shall cause a sample of blood of each pregnant woman to be taken by a licensed health care provider authorized to take blood samples and shall have the sample submitted to an approved laboratory for a standard serological test for syphilis and HIV. A pregnant woman may decline to be tested as specified in this subsection (1), in which case the licensed health care provider shall document that fact in her medical record.</p> <p>(2) If a pregnant woman entering a hospital for delivery has not been tested for HIV during her pregnancy, the hospital shall notify the woman that she will be tested for HIV unless she objects and declines the test. If the woman declines to be tested, the hospital shall document that fact in the pregnant woman's medical record.</p>
§ 25-4-203	<p>Birth certificate - blood test.</p> <p>In reporting every birth and stillbirth, physicians and others required to make such reports shall state on the certificate whether a blood test for syphilis AND HIV has been made upon a specimen of blood taken from the woman who bore the child for which a birth or stillbirth certificate is filed and the approximate date when the specimen was taken. In no event shall the birth certificate state the result of the test.</p>
§ 25-4-401	<p>Sexually transmitted infections – definitions.</p> <p>(1) As used in this part 4:</p> <p>(a) "Department" means the department of public health and environment created in section 25-1-102.</p> <p>(b) "Health officer" means the executive director of the department, the chief medical officer appointed pursuant to section 25-1-105, or a county or district public health director.</p> <p>(c) "Sexually transmitted infection" means syphilis, gonorrhea, and any other type of sexually transmitted infection designated by the state board</p>

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	<p>by rule as contagious, upon making a finding that the particular sexually transmitted infection is contagious; except that cases of AIDS, HIV-related illness, and HIV infections shall be governed solely by the requirements of part 14 of this article.</p> <p>(d) "State board" means the state board of health created in section 25-1-103.</p> <p>(2) Sexually transmitted infections are declared to be contagious, sexually transmitted, and dangerous to the public health.</p> <p>(3) It is unlawful for any person who has knowledge or reasonable grounds to suspect that he or she is infected with a sexually transmitted infection to willfully expose to or infect another person with the sexually transmitted infection or to knowingly perform an act that exposes or infects another person to or with a sexually transmitted infection.</p>
§ 25-4-402	<p>Sexually transmitted infections reported - physician's immunity.</p> <p>1) Any physician, intern, or other person who makes a diagnosis in, prescribes for, or treats a sexually transmitted infection and any superintendent or manager of a state, county, or city hospital, dispensary, or charitable or penal institution in which there is a sexually transmitted infection shall make a report of such infection to the health authorities in accordance with the provisions of section 25-1-122 (1).</p> <p>(2) (Deleted by amendment, L. 91, p. 945, § 4, effective May 6, 1991.)</p> <p>(3) Reports of sexually transmitted infection shall be made in accordance with the requirements set forth in section 25-1-122 (1).</p> <p>(4) Any physician, upon consultation by a minor as a patient and with the consent of the minor patient, may make a diagnostic examination for sexually transmitted infection and may prescribe for and treat the minor patient for sexually transmitted infection without the consent of or notification to the parent or guardian of the minor patient or to any other person having custody of or parental responsibilities with respect to the minor patient. In any such case, the physician shall not be civilly or criminally liable for making the diagnostic examination or rendering the treatment, but the immunity from liability shall not apply to any negligent acts or omissions of the physician.</p>
§ 25-4-404	<p>Examination of suspected cases.</p> <p>(1) Health officers or their authorized assistants or deputies within their respective jurisdictions are directed, when in their judgment it is necessary to protect the public health, to:</p> <p>(a) Require a person reasonably suspected of having a sexually transmitted infection to be examined and to detain the person until the results of the examination are known;</p>

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	<p>(b) Require the examiner to give a written report of the examination to the confining health officer;</p> <p>(c) Require persons with sexually transmitted infections to report for treatment to a qualified physician and continue treatment until cured; and</p> <p>(d) Isolate persons with sexually transmitted infections.</p> <p>(2) The examination and treatment of any person with a sexually transmitted infection shall be conducted by a qualified physician of the person's own choice, but, if the person is unable to retain a private physician, he or she shall submit to examination and treatment provided at public expense.</p> <p>(3) It is the duty of all health officers to investigate sources of sexually transmitted infection, to cooperate with the proper officials whose duty it is to enforce laws directed against prostitution, and otherwise to use every proper means for the repression of prostitution.</p>
§ 25-4-405	<p>Examination of persons confined.</p> <p>(1) All persons who are confined, detained, or imprisoned in any state, county, or city hospital or institution for persons with mental illness, any home for dependent children, any reformatory or prison, or any private or charitable institution where any person may be confined, detained, or imprisoned by order of court in this state shall be examined for and, if infected, treated for sexually transmitted infections by the health authorities having jurisdiction. The managing authorities of any such institutions are directed to make available to the health authorities such portion of their respective institutions as may be necessary for a clinic or hospital, wherein all persons who may be confined or detained or imprisoned in any such institution and who are infected with sexually transmitted infections may be treated in a manner as prescribed by the appropriate health officer.</p>
§ 25-4-406	<p>Rules - provision of services.</p> <p>(1) The department, through the state board, shall adopt rules it deems necessary to carry out the provisions of this part 4, including rules providing for the control and treatment of persons isolated under section 25-4-405 and other rules not in conflict with this part 4 that the department deems advisable concerning the control of sexually transmitted infection and the care, treatment, and isolation of persons with sexually transmitted infections. The rules shall be binding upon all public health agencies, health officers, and other persons affected by this part 4 and shall have the force and effect of law.</p> <p>(2) Notwithstanding any other provision of this part 4 to the contrary, programs and services that provide for the investigation, identification, testing, preventive care, or treatment of sexually transmitted infections shall be available to a person regardless of his or her race, religion, gender, sexual orientation, ethnicity, national origin, or immigration status.</p>

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§ 25-4-407	<p>Penalty.</p> <p>(1) Except as provided in subsection (2) of this section, any person, firm, or corporation that violates a provision of this part 4, other than section 25-4-408, or any lawful rule adopted by the state board pursuant to the authority granted in this part 4, or fails or refuses to obey any lawful order issued by any health officer pursuant to the authority granted in this part 4, is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than three hundred dollars, or by imprisonment in the county jail for not more than ninety days, or by both such fine and imprisonment.</p> <p>(2) If the person who commits a violation of this part 4 or a lawful rule of the state board or who fails or refuses to obey a lawful order of a health officer is a licensed or certified health care professional, the health officer may bring an action in the district court of the judicial district in which the violation or failure or refusal occurs to seek a civil penalty of not more than three hundred dollars per violation, failure, or refusal. A person subject to the penalties specified in this subsection (2) shall not be subject to the penalties described in subsection (1) of this section.</p>
§ 25-4-408	<p>Distribution of information.</p> <p>The department shall prepare, for free distribution among the residents of the state, printed information and instructions concerning the dangers of sexually transmitted infections, their prevention, and the necessity for treatment. It is the duty of every physician who, during the course of an examination, discovers the existence of a sexually transmitted infection or who treats a person for a sexually transmitted infection to inform the person about the measures for preventing the spread of the infection and the necessity for treatment until cured, when appropriate.</p>
§ 25-4-1401	<p>Legislative declaration</p> <p>The general assembly hereby declares that infection with human immunodeficiency virus, the virus which causes acquired immune deficiency syndrome (AIDS), referred to in this part 14 as "HIV", is an infectious and communicable disease that endangers the population of this state. The general assembly further declares that reporting of HIV infection to public health officials is essential to enable a better understanding of the disease, the scope of exposure, the impact on the community, and the means of control; that efforts to control the disease should include public education, counseling, and voluntary testing; that restrictive enforcement measures should be used only when necessary to protect the public health; and that having AIDS or the HIV infection, being presumed to have the HIV infection, or seeking testing for the presence of such infection should not serve as the basis for discriminatory actions or the prevention of access to services. The general assembly further declares that the purpose of this part 14 is to protect the public health and prevent the spread of said disease.</p>
§ 25-4-1402	<p>Reports of HIV infection</p>

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	<p>(1) Every attending physician in this state shall make a report to the state department of public health and environment or local department of health, in a form and within a time period designated by the state department of public health and environment, on every individual known by said physician to have a diagnosis of AIDS, HIV-related illness, or HIV infection, including death from HIV infection.</p> <p>(2) All other persons treating a case of HIV infection in hospitals, clinics, sanitariums, penal institutions, and other private or public institutions shall make a report to the state department of public health and environment or local department of health, in a form and within a time period designated by the state department of public health and environment, on every individual having a diagnosis of AIDS, HIV-related illness, or HIV infection, including death from HIV infection.</p> <p>(3) Repealed.</p> <p>(4) The reports required to be made under the provisions of subsections (1) and (2) of this section shall contain the name, date of birth, sex, and address of the individual reported on and the name and address of the physician or other person making the report.</p> <p>(5) Good faith reporting or disclosure pursuant to this section or section 25-4-1403 shall not constitute libel or slander or a violation of the right of privacy or privileged communication.</p> <p>(6) Any person who in good faith complies completely with this part 14 shall be immune from civil and criminal liability for any action taken in compliance with the provisions of this part 14. Compliance by a physician with the reporting requirements of this part 14 and with any regulations promulgated by the state department of public health and environment relating thereto shall fulfill any duty of such physician to a third party.</p>
§ 25-4-1402.5	<p>Exemption from reporting</p> <p>(1) The reporting of the name, address, date of birth, or sex of research subjects with AIDS, HIV-related illness, or HIV infection to the state department of public health and environment or local department of health pursuant to the provisions of sections 25-4-1402 and 25-4-1403 shall not be required of any researcher conducting a medical research study of HIV treatment or vaccine effectiveness or conducting basic biomedical research into the cellular mechanisms causing HIV infection or HIV-related disease pursuant to an approved research protocol. For the purposes of the research exemption authorized in this section, "approved research protocol" means any activity which has been reviewed and approved by the state board of health. The research exemption authorized in this section does not alter the reporting requirements of persons and researchers otherwise required to make reports when engaged in any treatment or testing outside the scope of or prior to enrollment in an approved research protocol. The research exemption authorized in this section does not alter the reporting</p>

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	<p>requirement of persons otherwise required to make reports when engaged in any treatment or testing outside the scope of a research protocol and such exemption does not exempt the researcher from reporting other reportable diseases. The research exemption authorized in this section does not exempt medical researchers from meeting the requirements of section 25-4-1405 (5) to provide post-test counseling to infected enrolled research subjects and referral of such subjects to the state department of public health and environment or local department of health for partner notification services.</p> <p>(2) The state board of health shall approve research activities for the research reporting exemption specified in subsection (1) of this section based on evidence that the research activity for which an exemption is requested meets the eligibility requirements specified in subsection (3) of this section.</p> <p>(3) The state board of health shall grant the exemption specified in subsection (1) of this section, if the research activity meets all of the following criteria:</p> <ul style="list-style-type: none"> (a) Is fully described by a research protocol; (b) Is subject to review by and is governed by the federal department of health and human services; (c) Has as the protocol objectives either: The investigation of the effectiveness of a medical therapy or vaccine in preventing infection or the progression of HIV-related disease; or basic medical research into the cellular mechanisms causing HIV infection or HIV-related disease; (d) Is reviewed and approved by a duly constituted institutional review board in accordance with the regulations established by the secretary of the federal department of health and human services; (e) The researcher has provided information that the research activity will be facilitated by an exemption specified in subsection (1) of this section; and (f) Has been determined to have potential health benefits. <p>(4) Repealed.</p>
§ 25-4-1403	<p>Reports of positive HIV tests</p> <p>All laboratories or persons performing laboratory tests for HIV shall report to the state department of public health and environment or appropriate local department of health, in a form and within a time period designated by the state department of public health and environment, the name, date of birth, sex, and address of any individual whose specimen submitted for examination tests positive for HIV as defined by the state board of health. Such report shall include the test results and the name and address of the attending physician and any other person or agency referring such positive specimen for testing.</p>
§ 25-4-1404	<p>Use of reports</p>

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	<p>(1) The public health reports required to be submitted by sections 25-4-1402 and 25-4-1403 and records resulting from compliance with section 25-4-1405 (1) and held by the state department of public health and environment, any county, district, and municipal public health agency, or any health care provider or facility, third-party payor, physician, clinic, laboratory, blood bank, or other agency shall be strictly confidential information. Such information shall not be released, shared with any agency or institution, or made public, upon subpoena, search warrant, discovery proceedings, or otherwise, except under any of the following circumstances:</p> <p>(a) Release may be made of such information for statistical purposes in a manner such that no individual person can be identified.</p> <p>(b) Release may be made of such information to the extent necessary to enforce the provisions of this part 14 and related rules and regulations concerning the treatment, control, and investigation of HIV infection by public health officials.</p> <p>(c) Release may be made of such information to medical personnel in a medical emergency to the extent necessary to protect the health or life of the named party.</p> <p>(d) An officer or employee of the county, district, and municipal public health agency or state department of public health and environment may make a report of child abuse to agencies responsible for receiving or investigating reports of child abuse or neglect in accordance with the applicable provisions of the "Child Protection Act of 1987" set forth in part 3 of article 3 of title 19, C.R.S. However, in the event a report is made, only the following information shall be included in the report:</p> <p>(I) The name, address, and sex of the child;</p> <p>(II) The name and address of the person responsible for the child;</p> <p>(III) The name and address of the person who is alleged to be responsible for the suspected abuse or neglect, if known; and</p> <p>(IV) The general nature of the child's injury.</p> <p>(e) The state department of public health and environment and any county, district, and municipal public health agency, upon being contacted by a district attorney pursuant to section 18-3-415.5, C.R.S., shall provide the information specified in said section.</p> <p>(f) An officer or employee of the state department of public health and environment or of a county, district, and municipal public health agency, pursuant to section 18-3-415.5, C.R.S., shall provide, for purposes of a sentencing hearing, oral and documentary evidence limited to whether a person who has been bound over for trial for any sexual offense, as described in section 18-3-415.5, C.R.S., was provided notice that he or she had tested positive for the human immunodeficiency virus (HIV) that causes acquired immune deficiency syndrome or had discussion concerning his or her HIV infection, and the date of such notice or discussion.</p> <p>(2) No officer or employee of the state department of public health and environment or county, district, and municipal public health agency shall be examined in any judicial, executive, legislative, or other proceeding as to the existence or content of any individual's report retained by such department pursuant to this part 14 or as to the existence of the contents</p>

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	<p>of reports received pursuant to sections 25-4-1402 and 25-4-1403 or the results of investigations in section 25-4-1405. This provision shall not apply to administrative or judicial proceedings pursuant to section 25-4-1406 or 25-4-1407 or section 18-3-415.5, C.R.S.</p> <p>(3) Information regarding AIDS and HIV infection in medical records held by a facility that provides ongoing health care is considered medical information, not public health reports, and is protected from unauthorized disclosure as provided in section 18-4-412, C.R.S.</p>
§ 25-4-1405	<p>Disease control by the state department of public health and environment and local health departments</p> <p>(1) It is the duty of the executive director, or the chief medical officer, of the state department of public health and environment and county, district, and municipal public health directors to investigate sources of HIV infection and to use every proper means to prevent the spread of the disease.</p> <p>(2) It is the duty of the executive director, or the chief medical officer, of the state department of public health and environment and county, district, and municipal public health directors, as part of disease control efforts, to provide public information, risk-reduction education, confidential voluntary testing and counseling, educational materials for use in schools, and professional education to health care providers.</p> <p>(3) The state department of public health and environment shall develop and implement programs under which the state department and county, district, and municipal public health agencies may perform the following tasks:</p> <p>(a) Prepare and disseminate to health care providers circulars of information and presentations describing the epidemiology, testing, diagnosis, treatment, medical, counseling, and other aspects of HIV infection;</p> <p>(b) Provide consultation to agencies and organizations regarding appropriate policies for testing, education, confidentiality, and infection control;</p> <p>(c) Conduct health information programs to inform the general public of the medical and psychosocial aspects of HIV infection, including updated information on how infection is transmitted and can be prevented. The department shall prepare for free distribution among the residents of the state printed information and instructions concerning the dangers from HIV infection, its prevention, and the necessity for testing.</p> <p>(d) Prepare and update an educational program on HIV infection in the workplace for use by employers;</p> <p>(e) Develop and implement HIV education risk-reduction programs for specific populations at higher risk for infection; and</p> <p>(f) Develop and update a medically correct AIDS prevention curriculum for use at the discretion of secondary and middle schools.</p> <p>(4) School districts are urged to provide every secondary school student,</p>

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	<p>with parental consent, education on HIV infection and AIDS and its prevention.</p> <p>(5) It is the duty of every physician who, during the course of an examination, discovers the existence of HIV infection or who treats a patient for HIV infection to inform the patient of the interpretation of laboratory results and counsel the patient on measures for preventing the infection of others, prophylaxis and treatment of opportunistic infections, treatment to prevent progression of HIV infection, and the necessity of regular medical evaluation.</p> <p>(6) Any local county, district, and municipal public health agency, state institution or facility, medical practitioner, or public or private hospital or clinic may examine and provide treatment for HIV infection for any minor if such physician or facility is qualified to provide such examination and treatment. The consent of the parent or guardian of such minor shall not be a prerequisite to such examination and treatment. The physician in charge or other appropriate authority of the facility or the licensed physician concerned shall prescribe an appropriate course of treatment for such minor. The fact of consultation, examination, and treatment of such a minor under the provisions of this section shall be absolutely confidential and shall not be divulged by the facility or physician to any person other than the minor except for purposes of a report required under sections 25-4-1402 and 25-4-1403 and subsection (8) of this section and a report containing the name and medical information of the minor made to the appropriate authorities if required by the "Child Protection Act of 1975", part 3 of article 3 of title 19, C.R.S. If the minor is less than sixteen years of age or not emancipated, the minor's parents or legal guardian may be informed by the facility or physician of the consultation, examination, and treatment. The physician or other health care provider shall counsel the minor on the importance of bringing his parents or guardian into the minor's confidence about the consultation, examination, or treatment.</p> <p>(7) (a) When investigating HIV infection, the state department of public health and environment and county, district, and municipal public health agencies, within their respective jurisdictions, may inspect and have access to medical and laboratory records relevant to the investigation of HIV infection. (b) Repealed.</p> <p>(7.5) (a) When a public safety worker, emergency medical service provider, or staff member of a detention facility has been exposed to blood or other bodily fluid which there is a reason to believe may be infectious with HIV, the state department of public health and environment and county, district, and municipal public health agencies within their respective jurisdictions shall assist in evaluation and treatment of any involved persons by: (I) Accessing information on the incident and any persons involved to determine whether a potential exposure to HIV occurred; (II) Examining and testing such involved persons to determine HIV infection when the fact of an exposure has been established by the state department</p>

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	<p>of public health and environment or county, district, and municipal public health agency;</p> <p>(III) Communicating relevant information and laboratory test results on the involved persons to such persons' attending physicians or directly to the involved persons if the confidentiality of such information and test results is acknowledged by the recipients and adequately protected, as determined by the state department of public health and environment or county, district, and municipal public health agency; and</p> <p>(IV) Providing counseling to the involved persons on the potential health risks and treatment resulting from exposure.</p> <p>(b) The employer of an exposed person shall ensure that relevant information and laboratory test results on the involved person are kept confidential. Such information and laboratory results are considered medical information and protected from unauthorized disclosure.</p> <p>(c) For purposes of this subsection (7.5), "public safety worker" includes, but is not limited to, law enforcement officers, peace officers, and firefighters.</p> <p>(8) (a) No health care provider or other person and no hospital, clinic, laboratory, or other private or public institution shall test, or shall cause by any means to have tested, any specimen of any patient for HIV infection without the knowledge and consent of the patient; except that knowledge and consent need not be given:</p> <p>(I) Where a health care provider or a custodial employee of the department of corrections or the department of human services is exposed to blood or other bodily fluids that may be infectious with HIV;</p> <p>(II) When a patient's medical condition is such that knowledge and consent cannot be obtained;</p> <p>(III) When the testing is done as part of seroprevalence surveys if all personal identifiers are removed from the specimens prior to the laboratory testing;</p> <p>(IV) When the patient to be tested is sentenced to and in the custody of the department of corrections or is committed to the Colorado mental health institute at Pueblo and confined to the forensic ward or the minimum or maximum security ward of such institute;</p> <p>(V) When a person is bound over for trial of a sexual offense as set forth in section 18-3-415 or 18-3-415.5, C.R.S., or subject to testing under section 18-7-201.5 or 18-7-205.5, C.R.S., and is tested by a health care provider or facility other than one that exclusively provides HIV testing and counseling.</p> <p>(VI) When a pregnant woman is informed of the need for an HIV test and given the opportunity to decline the test as specified in section 25-4-201.</p> <p>(b) Any patient tested for HIV infection pursuant to this subsection (8) without his knowledge and consent shall be given notice promptly, personally, and confidentially that a test sample was taken and that the results of such test may be obtained upon his request.</p>
§ 25-4-1405.5	<p>Extraordinary circumstances - procedures</p> <p>(1) The general assembly hereby finds, determines, and declares that the</p>

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	<p>continued risk to the public health of the citizens of this state resulting from the presence and transmission of HIV infection warrants the implementation of controlled extraordinary measures to further the containment of HIV.</p> <p>(2) (a) (I) The provision of confidential counseling and testing services for HIV is the preferred screening service for detection of HIV infection. However, the department shall, consistent with generally accepted practices for the protection of the public health and safety, conduct an anonymous counseling and testing program for persons considered to be at high risk for infection with HIV. Such program shall be conducted at selected HIV testing sites. The department may operate sites or contract through local boards of health to conduct such testing in conjunction with counseling and testing sites, subject to maintaining standards for performance set by the state board of health.</p> <p>(II) The state board of health shall adopt rules specifying the performance standards for anonymous and confidential counseling and testing sites. Standards shall include, but are not limited to, performance standards for notifying and counseling HIV-infected persons and for partner notification.</p> <p>(b) (I) The disclosure of an individual's name, address, phone number, or birth date shall not be required under the program as a condition of being tested to determine whether such person is infected with HIV. Any provision of this part 14 that requires or can be construed to require a person seeking to be tested for HIV to disclose such information shall not apply to persons seeking to be tested at said test sites.</p> <p>(II) Notwithstanding the provisions of subparagraph (I) of this paragraph (b), the age and sex of a person seeking to be tested at the said test sites may be required. A person may provide personal identifying information after counseling, if the person volunteers to do so.</p>
§ 25-4-1406	<p>Public health procedures for persons with HIV infection</p> <p>(1) Orders directed to individuals with HIV infection or restrictive measures on individuals with HIV infection, as described in this part 14, shall be used as the last resort when other measures to protect the public health have failed, including all reasonable efforts, which shall be documented, to obtain the voluntary cooperation of the individual who may be subject to such an order. The orders and measures shall be applied serially with the least intrusive measures used first. The burden of proof shall be on the state department of public health and environment or county, district, and municipal public health agency to show that specified grounds exist for the issuance of the orders or restrictive measures and that the terms and conditions imposed are no more restrictive than necessary to protect the public health.</p> <p>(2) When the executive director of the state department of public health and environment or the director of the local county, district, and municipal public health agency, within his or her respective jurisdiction, knows or has reason to believe, because of medical or epidemiological information, that a person has HIV infection and is a danger to the public health, he or she may issue an order to:</p>

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	<p>(a) Require a person to be examined and tested to determine whether he has HIV infection;</p> <p>(b) Require a person with HIV infection to report to a qualified physician or health worker for counseling on the disease and for information on how to avoid infecting others;</p> <p>(c) Direct a person with HIV infection to cease and desist from specified conduct which endangers the health of others, but only if the executive director or local director has determined that clear and convincing evidence exists to believe that such person has been ordered to report for counseling or has received counseling by a qualified physician or health worker and continues to demonstrate behavior which endangers the health of others.</p> <p>(3) If a person violates a cease and desist order issued pursuant to paragraph (c) of subsection (2) of this section and it is shown that the person is a danger to others, the executive director of the state department of public health and environment or the director of the county, district, and municipal public health agency may enforce the cease and desist order by imposing such restrictions upon the person as are necessary to prevent the specific conduct which endangers the health of others. Restrictions may include required participation in evaluative, therapeutic, and counseling programs. Any restriction shall be in writing, setting forth the name of the person to be restricted and the initial period of time, not to exceed three months, during which the order shall remain effective, the terms of the restrictions, and such other conditions as may be necessary to protect the public health. Restrictions shall be imposed in the least restrictive manner necessary to protect the public health. The executive director or the director issuing an order pursuant to this subsection (3) shall review petitions for reconsideration from the person affected by the order. Restriction orders issued by directors of county, district, and municipal public health agencies shall be submitted for review and approval of the executive director of the state department of public health and environment.</p> <p>(4) (a) Upon the issuance of any order by the state department of public health and environment or the local county, district, and municipal public health agency pursuant to subsection (2) or (3) of this section, such department or agency shall give notice promptly, personally, and confidentially to the person who is the subject of the order stating the grounds and provisions of the order and notifying the person who is the subject of the order that he or she has a right to refuse to comply with such order and a right to be present at a judicial hearing in the district court to review the order and that he or she may have an attorney appear on his behalf in said hearing. If the person who is the subject of the order refuses to comply with such order and refuses to cooperate voluntarily with the executive director of the state department of public health and environment or the director of the county, district, and municipal public health agency, the executive director or county, district, or municipal director may petition the district court for an order of compliance with such order. The executive director or county, district, or municipal director shall request the district attorney to file such petition in the district court, but, if the district attorney</p>

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	<p>refuses to act, the executive director or local director may file such petition and be represented by the attorney general. If an order of compliance is requested, the court shall hear the matter within ten days after the request. Notice of the place, date, and time of the court hearing shall be made by personal service or, if the person is not available, shall be mailed to the person who is the subject of the order by prepaid certified mail, return receipt requested, at his or her last-known address. Proof of mailing by the state department of public health and environment or county, district, and municipal public health agency of health shall be sufficient notice under this section. The burden of proof shall be on the state department of public health and environment or the county, district, and municipal public health agency to show by clear and convincing evidence that the specified grounds exist for the issuance of the order and for the need for compliance and that the terms and conditions imposed therein are no more restrictive than necessary to protect the public health. Upon conclusion of the hearing, the court shall issue appropriate orders affirming, modifying, or dismissing the order.</p> <p>(b) If the executive director or the director of a county, district, or municipal public health agency does not petition the district court for an order of compliance within thirty days after the person who is the subject of the order refuses to comply, such person may petition the court for dismissal of the order. If the district court dismisses the order, the fact that such order was issued shall be expunged from the records of the state department of public health and environment or the county, district, or municipal public health agency.</p> <p>(5) Any hearing conducted pursuant to this section shall be closed and confidential, and any transcripts or records relating thereto shall also be confidential.</p>
§ 25-4-1407	<p>Emergency public health procedures</p> <p>(1) When the procedures of section 25-4-1406 have been exhausted or cannot be satisfied as a result of threatened criminal behavior and the executive director of the state department of public health and environment or the director of a county, district, or municipal public health agency, within his or her respective jurisdiction, knows or has reason to believe, because of medical information, that a person has HIV infection and that such person presents an imminent danger to the public health, the executive director or the director of a county, district, or municipal public health agency may bring an action in district court, pursuant to rule 65 of the Colorado rules of civil procedure, to enjoin such person from engaging in or continuing to engage in specific conduct which endangers the public health. The executive director or county, district, or municipal director shall request the district attorney to file such action in the district court, but, if the district attorney refuses to act, the executive director or county or district director may file such action and be represented by the attorney general.</p> <p>(2) Under the circumstances outlined in subsection (1) of this section, in</p>

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	<p>addition to the injunction order, the district court may issue other appropriate court orders including, but not limited to, an order to take such person into custody, for a period not to exceed seventy-two hours, and place him in a facility designated or approved by the executive director. A custody order issued for the purpose of counseling and testing to determine whether such person has HIV infection shall provide for the immediate release from custody and from the facility of any person who tests negative and may provide for counseling or other appropriate measures to be imposed on any person who tests positive. The person who is the subject of the order shall be given notice of the order promptly, personally, and confidentially stating the grounds and provisions of the order and notifying such person that he has a right to refuse to comply with such order and a right to be present at a hearing to review the order and that he may have an attorney appear on his behalf in said hearing. If such person contests testing or treatment, no invasive medical procedures shall be carried out prior to a hearing being held pursuant to subsection (3) of this section.</p> <p>(3) Any order issued by the district court pursuant to subsection (2) of this section shall be subject to review in a court hearing. Notice of the place, date, and time of the court hearing shall be given promptly, personally, and confidentially to the person who is the subject of the court order. Such hearing shall be conducted by the court no later than forty-eight hours after the issuance of the order. Such person has a right to be present at the hearing and may have an attorney appear on his behalf in said hearing. Upon conclusion of the hearing, the court shall issue appropriate orders affirming, modifying, or dismissing the order.</p> <p>(4) The burden of proof shall be on the state or county, district, or municipal public health agency to show by clear and convincing evidence that grounds exist for the issuance of any court order pursuant to subsection (1) or (2) of this section.</p> <p>(5) Any hearing conducted by the district court pursuant to subsection (1) or (2) of this section shall be closed and confidential, and any transcripts or records relating thereto shall also be confidential.</p> <p>(6) Any order entered by the district court pursuant to subsection (1) or (2) of this section shall impose terms and conditions no more restrictive than necessary to protect the public health.</p>
§ 25-4-1408	<p>Rules and Regulations.</p> <p>The state board of health may adopt such rules and regulations as are in its judgment necessary to carry out the provisions of this Part 14.</p>

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6 CCR-1009-9.0	<p>RULES AND REGULATIONS PERTAINING TO THE REPORTING, PREVENTION, AND CONTROL OF AIDS, HIV RELATED ILLNESS, AND HIV INFECTION</p> <p>Colorado has a comprehensive public health AIDS/HIV control law: Colorado Revised Statutes Title 25, Article 4, Sections 1401 et seq. These regulations are intended to provide detail and clarification for selected parts of the above cited statute. The statute covers subject matters not included in these regulations.</p> <p>C.R.S. 25-4-1405.5 (2) (a) (I) requires the Colorado Department of Public Health and Environment (CDPHE) to conduct an anonymous counseling and testing program for persons considered to be at high risk for infection with HIV. The provision of confidential counseling and testing for HIV is the preferred screening service for detection of HIV infection. Local boards of health who provide HIV counseling and testing through a contractual agreement with the CDPHE must consider the need for an anonymous HIV testing option in their jurisdiction. The consideration of this option must provide an opportunity for public comment in a public forum at a minimum of every two years. Other mechanisms for input into the need for an anonymous testing option in that jurisdiction must be available in addition to the public forum, including anonymous testimony in writing or through an organization. Local Boards of Health must document the following: notification of interested parties and the public, time allowed between notification and the public forum, accessibility in both location and time of the public forum, and the response to public comment in the decision process. Local boards of health electing to provide confidential HIV testing with an anonymous option must do so in conjunction with counseling and testing sites (CTS); i.e., CDPHE designated sites which screen individuals for HIV infection without providing on-going health care. This will be done through a contractual agreement with the CDPHE. Local boards of health may elect, at the time of contract renewal, to provide confidential testing with an anonymous option.</p> <p>Per C.R.S. 25-4-1405.5 (2) (a) (II), Regulations 6–8 are the performance standards for confidential and anonymous HIV CTS and the CDPHE staff.</p>
6 CCR-1009-9.1	<p>Reporting By Physicians, Health Care Providers, Hospitals, And Others</p> <p>Diagnosed cases of AIDS, HIV-related illness, and HIV infection, regardless of whether confirmed by laboratory tests, shall be reported to the state or local health department or health agency within 7 days of diagnosis by physicians, health care providers, hospitals, or any other person providing treatment to a person with HIV infection. When hospitals and laboratories transmit disease reports electronically using systems and protocols developed by the department that ensure protection of confidentiality, such reporting is acceptable and is considered good faith reporting.</p>

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	<p>All cases are to be reported with the patient's name, date of birth, sex, address (including city and county), name and address of the reporting physician or agency; and such other information as is needed to locate the patient for follow-up. For cases reported from a public anonymous testing site as provided by C.R.S. 25-4-1405.5, the patient's name and address and the name and address of the reporting physician are not required. Reports on hospitalized patients may be made part of a report by the hospital as a whole.</p> <p>Research activities of persons performing clinical research on persons with AIDS, HIV-related illness, or HIV infection whose research activity:</p> <ol style="list-style-type: none"> 1. involves the study of HIV treatment or vaccine effectiveness or is basic biomedical research into the cellular mechanisms causing HIV infection or HIV-related disease; 2. meets the research exemption criteria of C.R.S. 25-4-1402.5(3); and 3. has been approved by the Board of Health pursuant to C.R.S. 25-4-1402.5(2) shall be exempt from meeting the reporting requirements for AIDS, HIV-related illness, and HIV infection.
6 CCR-1009-9.2	<p>Reporting by Laboratories</p> <p>Laboratories shall report every test result that is diagnostic of or highly correlated with or indicates HIV infection. The report shall include the name, date of birth, sex and address of the individual from whom the specimen was submitted. Such test results shall be reported by all in-state laboratories and by out-of-state laboratories that maintain an office or collection facility in Colorado or arrange for collection of specimens in Colorado. Results must be reported by the laboratory which performs the test, but an in-state laboratory which sends specimens to an out-of-state referral laboratory is also responsible for reporting the results. The laboratory shall also report the name and address of the attending physician and any other person or agency referring such specimen for testing.</p> <p>When associated with other clinical or laboratory evidence of HIV infection, the Board of Health defines a CD4 test result of either CD4 count <500 mm³ or CD4% <29% as a primary immunologic measure indicating severe HIV infection and, when the count is <200 mm³, as defining AIDS. Laboratories shall report CD4 counts <500 mm³ OR CD4% <29%. The Department shall destroy personal identifying information on all persons with CD4 results in the reportable range if investigation subsequent to the report finds no evidence of HIV infection. Laboratories may fulfill the requirement to report CD4 counts <500 mm³ or CD4%<29% by allowing authorized personnel of the Department of Public Health and Environment access to such records.</p> <p>Laboratories shall follow the same procedures for reporting as are required of other reporting sources in Regulation 1.</p> <p>Report of test results by a laboratory does not relieve the attending physician of his/her obligation to report the case or diagnosis, nor does report by the physician relieve the laboratory of its obligation.</p>

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6 CCR-1009-9.4	<p>Confidentiality</p> <p>All public health reports and records held by the state or local health department in compliance with these regulations shall be confidential information subject to C.R.S. 25-4-1404. The public health reports and records referred to in C.R.S. 25-4-1404 shall include, but not be limited to, the forms and records designated by the CDPHE for institutions and agencies which screen individuals for HIV infection without providing ongoing health care, such as a public HIV counseling and testing site.</p> <p>Reasonable efforts shall be made by the department to consult with the attending physician or medical facility caring for the patient prior to any further follow-up by state or local health departments or health agencies.</p>
6 CCR-1009-9.6	<p>Objective Standards</p> <p>A. Training</p> <ol style="list-style-type: none"> 1. All persons providing HIV pre and posttest prevention and risk reduction counseling at a CTS will have completed the HIV Serologic Test Counseling course or an equivalent of not less than 16 hours of training, approved by the CDPHE STD/AIDS Program. 2. All persons providing HIV pre and posttest prevention and risk reduction counseling at a CTS will have a minimum of 8 hours of relevant HIV/STD or allied health services continuing education annually, approved by the CDPHE STD/AIDS Program. 3. All persons performing partner notification interviews will have completed courses concerning introduction to sexually transmitted disease interviewing and partner notification, as specified by the CDPHE. <p>B. Notification of Results</p> <ol style="list-style-type: none"> 1. Of all HIV tests performed at a CTS, 90% of those persons testing HIV positive will receive results and posttest risk-reduction counseling. 2. Of all HIV tests performed at a CTS, 80% of those persons testing HIV negative will receive results and posttest prevention and risk reduction counseling. <p>C. Partner Notification</p> <p>If CDPHE staff provide partner notification for a CTS, then the following standards do not apply to the CTS.</p> <ol style="list-style-type: none"> 1. Of the 90% of HIV positive individuals receiving results and posttest counseling, 100% will be assigned for partner notification interview. A minimum of 75% of those assigned for a partner notification interview will receive an interview. Agencies providing partner notification services (CDPHE and local health departments) will have a partner index (defined as the number of unsafe partners identified for whom identifying information was sufficient to initiate notification, divided by the number of interviewed HIV positive persons with unsafe behavior in the past year) of 0.8. Effective January 1, 1995, the acceptable partner index will be 1.0. Documentation of this activity will be provided to the CDPHE through use of a CDPHE specified form. A contact is defined as a person named by an infected person as having been an unsafe sex partner/needle share partner

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	<p>of that infected person. If sufficient locating information (name, age, sex, phone number, recent address, work address) is obtained to conduct an investigation, such a contact is defined as an initiated contact.</p> <p>2. Of all in-state initiated contacts, 60% must be located and offered HIV prevention and risk-reduction counseling and/or testing as documented by the results of the investigation on the CDPHE specified form. Documentation of investigation outcomes will include disposition codes as specified by the CDPHE, dates and location of counseling, and dates and location of testing (if done).</p>
6 CCR-1009-9.7	<p>Operational Standards</p> <p>A. Counseling</p> <ol style="list-style-type: none"> 1. All counselors at a CTS performing HIV pretest prevention and risk reduction counseling will: a) conduct a risk assessment, b) discuss and develop a risk-reduction plan, i.e., identify with the client specific behaviors that can realistically be changed to reduce risk, c) fully and legibly complete for each person tested the HIV 1 Serology lab slip. 2. All counselors at a CTS performing HIV posttest prevention and risk reduction counseling will: a) inform clients in person of test results, b) explain the significance of both positive and negative test results, c) discuss and/or modify the risk-reduction plan, d) refer clients who test positive for follow-up medical and counseling services. <p>B. Consent Form</p> <ol style="list-style-type: none"> 1. A consent form specified by the CDPHE or an approved equivalent must be used at all CTS. <p>C. Testing Parameters</p> <ol style="list-style-type: none"> 1. CTS will not provide anonymous testing to any person 12 years of age or younger. 2. If a counselor judges that a client is unable to understand either counseling or the testing process, e.g., because the client is under the influence of drugs or alcohol, the counselor may defer testing. <p>D. Written Results</p> <ol style="list-style-type: none"> 1. CTS may only provide written results to persons testing confidentially. To receive written results, the CTS must be presented with photo identification from the person requesting written results at the time of posttest. 2. Contracting agencies may not give written results to any person testing anonymously. <p>E. Confidentiality and Record Maintenance</p> <ol style="list-style-type: none"> 1. Contracting agencies must have and adhere to an HIV record retention policy. Any record retention policy must be adopted by the local board of health with the opportunity for public comment and input through an open public forum conducted at least every two years. Other mechanisms for input into the record retention policy must be available in addition to the public forum, including anonymous testimony in writing or through an organization.

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	<p>Any policy must address the following areas:</p> <ul style="list-style-type: none">a) linkage of personal identifiers, behavioral risk information and results; time frames, if any for delinkage, (The CDPHE encourages that any record retention policy include the delinking of identifying information from risk information 120 days from the date of testing.),b) the availability of anonymous testing,c) time frames for destruction of records,d) method and supervision for destruction of records,e) approval of record retention policy by the Colorado State Archivist,f) procedures for hard (paper) records and electronic (computer) records,g) procedures for records of negative results and positive resultsh) inclusion of record retention information in the client consent form <p>2. Per C.R.S. 25-4-1404.5 (2) (a) (II), a person may provide personal identifying information after counseling, if the person volunteers to do so. Contracting agencies must document this information when volunteered, and provide this information to the CDPHE on the posttest reimbursement form submitted to the CDPHE within 30 days of the date the blood specimen was collected.</p>