

Iowa

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April 8, 2011

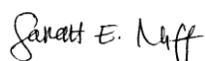
To the Reader:

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,



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Director of Research and Evaluation

&



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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>

Iowa

A Quick Reference Guide for Clinicians to Iowa HIV Testing Laws

April 8, 2011

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

Informed Consent

- HIV testing is implicitly included in a general consent for medical tests or procedures.
- If general medical consent is not used or is no longer in effect, specific informed consent may be oral or in writing.

Counseling

- Post-test counseling is required with HIV positive test results.

Provisos of Testing

- **Anonymous**
 - Anonymous testing is not available.
- **Rapid**
 - No specific provisions regarding rapid testing were found.
- **Routine**
 - No specific provisions regarding routine testing were found.

Disclosure

- Notification to sexual partners of possible exposure to HIV is required.

Minor/Adolescent Testing

- Minors may consent to HIV testing.
- Specific written informed consent is required.
- Health care provider or health facility is required to inform the legal guardian of an HIV positive result.
- Health facility must notify patient that legal guardian will be notified of an HIV positive result.

Iowa

Perinatal Quick Reference Guide:

A Guide to Iowa Perinatal HIV Testing Laws for Clinicians

April 8, 2011

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

Prenatal

- Testing of pregnant women in prenatal care as part of the routine panel of prenatal tests is through the opt-out process; objection must be documented in medical record.

Labor & Delivery

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

Neonatal

- No specific provisions regarding neonatal testing were found.

Other

- **Information**
 - Information about HIV prevention, risk reduction, and treatment opportunities to reduce the possible transmission of HIV to a fetus shall be made available to all pregnant women.

Iowa

State Policies Relating to HIV Testing, 2011

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Iowa Administrative Code [IAC]

Title 641: Public Health Department.....	Pages 27-33
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	Policy Category	Type	Section Code(s)
RESTR.ICTIONS/MANDATES	Restrictions on use of HIV test	Home test kits not allowed	4 IC § 126.25
		Testing prohibited for employment purposes	6 IC § 216.6
	Mandatory testing within the criminal justice system	Persons or juveniles charged with or convicted of sexual assault, upon request of victim	16 IC § 915.42 16 IC § 709C.1 IAC 641—11.72
	Mandatory testing outside of the criminal justice system	Occupational exposure – testing of source patient in cases of health care worker exposure	4 IC § 141A.8
PRE-TESTING	Mandatory offering of HIV/AIDS information and/or testing	Public education must be provided by the department	4 IC § 141A.3
		HIV testing and education must be offered to all patients testing positive for a STD	4 IC § 141A.4
		HIV testing and education must be offered to patients with a history of injecting drug use	4 IC § 141A.4
		HIV testing and education must be offered to all male and female sex workers and those who trade sex for drugs, money, or favors	4 IC § 141A.4
		HIV testing and education must be offered to all patients at-risk for HIV infection	4 IC § 141A.4

		HIV testing and education must be offered to persons whose partners test positive for an STD, have a history of injecting drug use, are sex workers or trade sex for drugs, money, or favors, or have HIV-positive partners	4 IC § 141A.4
	Informed consent	General consent sufficient	4 IC § 141A.6
		If general consent is not used or is no longer in effect, consent may be oral or written	4 IC § 141A.6
		Written informed consent required for the testing of minors	4 IC § 141A.7
	Counseling requirements	Mandatory post-test counseling for HIV positive results	4 IC § 141A.7
		Pre- and post-test counseling required for sexual offenders	IAC 641—11.74
		Mandatory counseling for victims of a sex offense before the hearing	16 IC § 915.42
		Pre-test education must be available for all persons tested for HIV	4 IC § 141A.6
	Anonymous testing	Confidential testing only	4 IC § 141A.6
POST-TEST	Disclosure/confidentiality	Exceptions to confidentiality	4 IC § 141A.9
		Partner notification	4 IC § 141A.5
	Reporting	Name-based reporting	4 IC § 139A.3 4 IC § 141A.6 IAC 641—11.29
		Reports must be made within 7 days	4 IC § 141A.6
		Name-based reporting from all labs indicative of HIV (includes all CD4+ and all viral loads)	4 IC § 139A.32 4 IC § 141A.6
	OTHER	Testing of pregnant women and/or newborns	Pregnant women in prenatal care as a part of routine panel of prenatal tests – opt-out testing; objection must be documented in medical record
Information about HIV prevention, risk reduction, and treatment opportunities to reduce the possible transmission of HIV			4 IC § 141A.4

	to a fetus shall be made available to all pregnant women	
Testing of minors/adolescents	Minors may consent to HIV testing; separate, written consent required	4 IC § 141A.7
	Parents or guardians must be notified of an HIV+ result by health care provider or facility	4 IC § 141A.7
	Minor shall be notified before undergoing testing that parents will be notified of a positive result	4 IC § 141A.7
Rapid HIV testing	No related laws found	
Training and education of health care providers	Providers at hospice, home health, and respite agencies, and emergency and law enforcement personnel must complete training program	IAC 641—11.35

Recommended Resources

The Iowa Legislature General Assembly

<http://www.legis.state.ia.us/>

Iowa Administrative Code

<http://www.legis.state.ia.us/IAC.html>

Iowa Department of Public Health

<http://www.idph.state.ia.us/>

Title IV: Public Health

IA Title IV Code §	Code Language
§ 126.25	<p>Human immunodeficiency virus home testing kits -- prohibition -- penalties.</p> <p>1. A person shall not advertise for sale, offer for sale, or sell in this state a home testing kit for human immunodeficiency virus antibody or antigen testing. The Iowa department of public health, in consultation with the board, shall adopt rules to establish what constitutes a home testing kit for the purposes of this section.</p> <p>2. A person who violates this section is guilty of a class "D" felony.</p> <p>3. The board may seek relief pursuant to section 126.4 restraining any person from violating the provisions of this section. In addition to granting a temporary or permanent injunction, the court may impose a civil penalty not to exceed forty thousand dollars per violation of this section.</p> <p>4. In addition to other remedies provided for in this chapter, the court may impose a civil penalty of not more than five thousand dollars for each day of intentional violation of a temporary restraining order, preliminary injunction, or permanent injunction issued under authority of this section.</p> <p>5. The board may refer available evidence concerning a possible violation of this section to the attorney general. The attorney general, with or without such a referral, may institute appropriate criminal proceedings or may refer the case to the appropriate county attorney.</p> <p>6. This section does not apply to a newspaper or other print medium in which the advertisement appears, or to a broadcast station or other electronic medium which disseminates the advertisement unless the medium knowingly violates this section. A person who sells home testing kits for human immunodeficiency virus antibody or antigen testing shall not cause advertising of the kits to appear in this state from a location outside this state where such advertising is not prohibited without prominently indicating in the advertisement that the sale of the kits is void in this state.</p>
§ 139A.3	<p>Reports to department -- immunity -- confidentiality -- investigations.</p> <p>1. The health care provider or public, private, or hospital clinical laboratory attending a person infected with a reportable disease shall immediately report the case to the department. However, when a case occurs within the jurisdiction of a local health department, the report shall be made to the local department and to the department. A health care provider or public, private, or hospital clinical laboratory who files such a report which identifies a person infected with a reportable disease shall assist in the investigation by the department, a local board, or a local department. The department shall publish and distribute instructions concerning the method of reporting. Reports shall be made in accordance with rules adopted by the</p>

IA Title IV Code §	Code Language
	<p>department and shall require inclusion of all the following information:</p> <ol style="list-style-type: none"> a. The patient's name. b. The patient's address. c. The patient's date of birth. d. The sex of the patient. e. The race and ethnicity of the patient. f. The patient's marital status. g. The patient's telephone number. h. The name and address of the laboratory. i. The date the test was found to be positive and the collection date. j. The name of the health care provider who performed the test. k. If the patient is female, whether the patient is pregnant. <p>2. a. Any person who, acting reasonably and in good faith, files a report, releases information, or otherwise cooperates with an investigation under this chapter is immune from any liability, civil or criminal, which might otherwise be incurred or imposed for such action.</p> <p>b. A report or other information provided to or maintained by the department, a local board, or a local department, which identifies a person infected with or exposed to a reportable or other disease or health condition, is confidential and shall not be accessible to the public.</p> <p>c. Notwithstanding paragraph "b", information contained in the report may be reported in public health records in a manner which prevents the identification of any person or business named in the report. If information contained in the report concerns a business, information disclosing the identity of the business may be released to the public when the state epidemiologist or the director of public health determines such a release of information necessary for the protection of the health of the public.</p> <p>3. A health care provider or public, private, or hospital clinical laboratory shall provide the department, local board, or local department with all information reasonably necessary to conduct an investigation pursuant to this chapter upon request of the department, local board, or local department. The department may also subpoena records, reports, and any other evidence necessary to conduct an investigation pursuant to this chapter from other persons, facilities, and entities pursuant to rules adopted by the department.</p>

IA Title IV Code §	Code Language
§ 139A.32	<p>Examination results from laboratory -- report.</p> <p>A person in charge of a public, private, or hospital clinical laboratory shall report to the department, on forms prescribed by the department, results obtained in the examination of all specimens which yield evidence of or are reactive for those diseases defined as sexually transmitted diseases or infections, and listed in the Iowa administrative code. The report shall state the name of the infected person from whom the specimen was obtained, the address of the infected person, the infected person's date of birth, the sex of the infected person, the race and ethnicity of the infected person, the infected person's marital status, the infected person's telephone number, if the infected person is female, whether the infected person is pregnant, the name and address of the laboratory that performed the test, the laboratory results, the test employed, the date the test was found to be positive and the collection date, the name of the health care provider who performed the test, and the name and address of the person submitting the specimen.</p>
§ 141A.1	<p>Definitions.</p> <p>As used in this chapter, unless the context otherwise requires:</p> <ol style="list-style-type: none"> 1. "AIDS" means acquired immune deficiency syndrome as defined by the centers for disease control and prevention of the United States department of health and human services. 2. "AIDS-related conditions" means any condition resulting from the human immunodeficiency virus infection that meets the definition of AIDS as established the centers for disease control and prevention of the United States department of health and human services. 3. "Blinded epidemiological studies" means studies in which specimens which were collected for other purposes are selected according to established criteria, are permanently stripped of personal identifiers, and are then tested. 4. "Blood bank" means a facility for the collection, processing, or storage of human blood or blood derivatives, including blood plasma, or from which or by means of which human blood or blood derivatives are distributed or otherwise made available. 5. "Care provider" means an individual who is trained and authorized by federal or state law to provide health care services or services of any kind in the course of the individual's official duties, for compensation or in a voluntary capacity, who is a health care provider, emergency medical care provider as defined in section 147A.1, fire fighter, or peace officer. "Care provider" also means an individual who renders emergency care or assistance in an emergency or due to an accident as described in section 613.17. 6. "Department" means the Iowa department of public health. 7. "Good faith" means objectively reasonable and not in violation of clearly established statutory rights or other rights of a person which a reasonable person would know or should have known. 8. "Health care provider" means a person licensed to practice medicine and surgery, osteopathy, chiropractic, podiatry, nursing, dentistry, or optometry, or as a physician assistant, dental hygienist, or acupuncturist.

IA Title IV Code §	Code Language
	<p>9. "Health facility" means a hospital, health care facility, clinic, blood bank, blood center, sperm bank, laboratory organ transplant center and procurement agency, or other health care institution.</p> <p>10. "HIV" means the human immunodeficiency virus identified as the causative agent of AIDS.</p> <p>a. "HIV-related condition" means any condition resulting from the human immunodeficiency virus infection.</p> <p>11. "HIV-related test" means a diagnostic test conducted by a laboratory approved pursuant to the federal Clinical Laboratory Improvement Amendments for determining the presence of HIV or antibodies to HIV.</p> <p>12. "Infectious bodily fluids" means bodily fluids capable of transmitting HIV infection as determined by the centers for disease control and prevention of the United States department of health and human services and adopted by rule of the department.</p> <p>13. "Legal guardian" means a person appointed by a court pursuant to chapter 633 or an attorney in fact as defined in section 144B.1. In the case of a minor, "legal guardian" also means a parent or other person responsible for the care of the minor.</p> <p>14. "Nonblinded epidemiological studies" means studies in which specimens are collected for the express purpose of testing for the HIV infection and persons included in the nonblinded study are selected according to established criteria.</p> <p>15. "Release of test results" means a written authorization for disclosure of HIV-related test results which is signed and dated, and which specifies to whom disclosure is authorized and the time period during which the release is to be effective.</p> <p>16. "Sample" means a human specimen obtained for the purpose of conducting an HIV-related test.</p> <p>17. "Significant exposure" means the risk of contracting HIV infection by means of exposure to a person's infectious bodily fluids in a manner capable of transmitting HIV infection as determined by the centers for disease control and prevention of the United States department of health and human services and adopted by rule of the department.</p>
§ 141A.2	<p>Lead Agency.</p> <p>1. The department is designated as the lead agency in the coordination and implementation of the Iowa comprehensive HIV plan.</p> <p>2. The department shall adopt rules pursuant to chapter 17A to implement and enforce this chapter. The rules may include procedures for taking appropriate action with regard to health facilities or health care providers which violate this chapter or the rules adopted pursuant to this chapter.</p> <p>3. The department shall adopt rules pursuant to chapter 17A which require that if a health care provider attending a person prior to the person's death determines that the person suffered from or was suspected of suffering from a contagious or infectious disease, the health care provider shall place with the remains written notification of the condition for the information of any person handling the body of the deceased person subsequent to the person's death. For purposes of this subsection,</p>

IA Title IV Code §	Code Language
	<p>"contagious or infectious disease" means hepatitis in any form, meningococcal disease, tuberculosis, and any other disease including AIDS or HIV infection, determined to be life-threatening to a person exposed to the disease as established by rules adopted by the department based upon a determination by the state epidemiologist and in accordance with guidelines of the centers for disease control and prevention of the United States department of health and human services.</p> <p>4. The department shall provide consultation services to all care providers, including paramedics, ambulance personnel, physicians, nurses, hospital personnel, first responders, peace officers, and fire fighters, who provide care services to a person, and to all persons who attend dead bodies, regarding standard precautions to prevent the transmission of contagious and infectious diseases.</p> <p>5. The department shall coordinate efforts with local health officers to investigate sources of HIV infection and use every appropriate means to prevent the spread of the infection.</p> <p>6. The department, with the approval of the state board of health, may conduct epidemiological blinded and nonblinded studies to determine the incidence and prevalence of the HIV infection. Initiation of any new epidemiological studies shall be contingent upon the receipt of funding sufficient to cover all the costs associated with the studies. The informed consent, reporting, and counseling requirements of this chapter shall not apply to blinded studies.</p>
§ 141A.3	<p>Duties of the department.</p> <p>1. All federal and state moneys appropriated to the department for HIV-related activities shall be utilized and distributed in a manner consistent with the guidelines established by the United States department of health and human services.</p> <p>2. The department shall do all of the following:</p> <p><i>a.</i> Provide consultation services to agencies and organizations regarding appropriate policies for testing, education, confidentiality, and infection control.</p> <p><i>b.</i> Provide health information to the public regarding HIV infection, including information about how the infection is transmitted and how transmittal can be prevented. The department shall prepare and distribute information regarding HIV infection and prevention.</p> <p><i>c.</i> Provide consultation services concerning HIV infection in the workplace.</p> <p><i>d.</i> Implement HIV education risk-reduction programs for specific populations at high risk for infection.</p> <p><i>e.</i> Provide an informational brochure for patients who provide samples for purposes of performing an HIV test which, at a minimum, shall include a summary of the patient's rights and responsibilities under the law.</p> <p><i>f.</i> In cooperation with the department of education, recommend evidence-based, medically accurate HIV prevention curriculum for use at the discretion of secondary and middle schools.</p>

IA Title IV Code §	Code Language
§ 141A.4	<p>Testing and education.</p> <p>1. HIV testing and education shall be offered to persons who are at risk for HIV infection including all of the following:</p> <ul style="list-style-type: none"> a. All persons testing positive for a sexually transmitted disease. b. All persons having a history of injecting drug abuse. c. Male and female sex workers and those who trade sex for drugs, money or favors. d. Sexual partners of HIV-infected persons. e. Persons whose sexual partners are identified in paragraphs "a" through "d". <p>2. a. All pregnant women shall be tested for HIV infection as part of the routine panel of prenatal tests.</p> <p>b. A pregnant woman shall be notified that HIV screening is recommended for all prenatal patients and that the pregnant woman will receive an HIV test as part of the routine panel of prenatal tests unless the pregnant woman objects to the test.</p> <p>c. If a pregnant woman objects to and declines the test, the decision shall be documented in the pregnant woman's medical records.</p> <p>d. Information about HIV prevention, risk reduction, and treatment opportunities to reduce the possible transmission of HIV to a fetus shall be made available to all pregnant women.</p>
§ 141A.5	<p>Partner notification program -- HIV.</p> <p>1. The department shall maintain a partner notification program for persons known to have tested positive for the HIV infection.</p> <p>2. In administering the program, the department shall provide for the following:</p> <ul style="list-style-type: none"> a. A person who tests positive for HIV infection shall receive posttest counseling, during which time the person shall be encouraged to refer for counseling and HIV testing any person with whom the person has had sexual relations or has shared drug injecting equipment. b. The physician or other health care provider attending the person may provide to the department any relevant information provided by the person regarding any person with whom the tested person has had sexual relations or has shared drug injecting equipment. c. Devise a procedure, as a part of the partner notification program, to provide for the notification of an identifiable third party who is a sexual partner of or who shares drug injecting equipment with a person who has tested positive for HIV, by the department or a physician, when all of the following situations exist: <ul style="list-style-type: none"> (1) A physician for the infected person is of the good faith opinion that the nature of the continuing contact poses an imminent danger of HIV infection transmission to the third party. (2) When the physician believes in good faith that the infected person, despite strong encouragement, has not and will not warn the third party and will not participate in the voluntary partner notification program. <p>Notwithstanding subsection 3, the department or a physician may reveal</p>

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	<p>the identity of a person who has tested positive for HIV infection pursuant to this subsection only to the extent necessary to protect a third party from the direct threat of transmission. This subsection shall not be interpreted to create a duty to warn third parties of the danger of exposure to HIV through contact with a person who tests positive for HIV infection.</p> <p>The department shall adopt rules pursuant to chapter 17A to implement this paragraph "c". The rules shall provide a detailed procedure by which the department or a physician may directly notify an endangered third party.</p> <p>3. In making contact the department shall not disclose the identity of the person who provided the names of the persons to be contacted and shall protect the confidentiality of persons contacted.</p> <p>4. The department may delegate its partner notification duties under this section to local health authorities unless the local authority refuses or neglects to conduct the partner notification program in a manner deemed to be effective by the department.</p> <p>5. In addition to the provisions for partner notification provided under this section and notwithstanding any provision to the contrary, a county medical examiner or deputy medical examiner performing official duties pursuant to sections 331.801 through 331.805 or the state medical examiner or deputy medical examiner performing official duties pursuant to chapter 691, who determines through an investigation that a deceased person was infected with HIV, may notify directly, or request that the department notify, the immediate family of the deceased or any person known to have had a significant exposure from the deceased of the finding.</p>
§ 141A.6	<p>HIV-related conditions -- consent, testing, and reporting – penalty.</p> <p>1. Prior to undergoing an HIV-related test, information shall be available to the subject of the test concerning testing and any means of obtaining additional information regarding HIV infection and risk reduction. If an individual signs a general consent form for the performance of medical test or procedures, the signing of an additional consent form for the specific purpose of consenting to an HIV-related test is not required during the time in which the general consent form is in effect. If an individual has not signed a general consent form for the performance of medical tests and procedures or the consent form is no longer in effect, a health care provider shall obtain oral or written consent prior to performing an HIV-related test. If an individual is unable to provide consent, the individual's legal guardian may provide consent. If the individual's legal guardian cannot be located or is unavailable, a health care provider may authorize the test when the test results are necessary for diagnostic purposes to provide appropriate urgent medical care.</p> <p>2. Within seven days of the receipt of a test result indicating HIV infection which has been confirmed as positive according to prevailing medical technology or immediately after the initial examination or treatment of an</p>

IA Title IV Code §	Code Language
	<p>individual infected with HIV, the physician or other health care provider at whose request the test was performed or who performed the initial examination or treatment shall make a report to the department on a form provided by the department.</p> <p>3. Within seven days of diagnosing a person as having AIDS or an AIDS-related condition, the diagnosing physician shall make a report to the department on a form provided by the department.</p> <p>4. Within seven days of the death of a person with HIV infection, the attending physician shall make a report to the department on a form provided by the department.</p> <p>5. Within seven days of the receipt of a test result indicating HIV infection which has been confirmed as positive according to prevailing medical technology, the director of a blood bank shall make a report to the department on a form provided by the department.</p> <p>6. Within seven days of the receipt of a test result that is indicative of HIV, the director of a clinical laboratory shall make a report to the department on a form provided by the department.</p> <p>7. The forms provided by the department shall require inclusion of all of the following information:</p> <ul style="list-style-type: none"> a. The name of the patient. b. The address of the patient. c. The patient's date of birth. d. The gender of the patient. e. The race and ethnicity of the patient. f. The patient's marital status. g. The patient's telephone number. h. If an HIV-related test was performed, the name and address of the laboratory or blood bank. i. If an HIV-related test was performed, the date the test was found to be positive and the collection date. j. If an HIV-related test was performed, the name of the physician or health care provider who performed the test. k. If the patient is female, whether the patient is pregnant. <p>8. An individual who repeatedly fails to file the report required under this section is subject to a report being made to the licensing board governing the professional activities of the individual. The department shall notify the individual each time the department determines that the individual has failed to file a required report. The department shall inform the individual in the notification that the individual may provide information to the department to explain or dispute the failure to report.</p> <p>9. A public, private, or hospital clinical laboratory that repeatedly fails to make the report required under this section is subject to a civil penalty of not more than one thousand dollars per occurrence. The department shall</p>

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	not impose the penalty under this subsection without prior written notice and opportunity for hearing.
§ 141A.7	<p>Test results -- counseling -- application for services.</p> <p>1. At any time that the subject of an HIV-related test is informed of confirmed positive test results, counseling concerning the emotional and physical health effects shall be initiated. Particular attention shall be given to explaining the need for the precautions necessary to avoid transmitting the virus. The subject shall be given information concerning additional counseling. If the legal guardian of the subject of the test provides consent to the test pursuant to section 141A.6, the provisions of this subsection shall apply to the legal guardian.</p> <p>2. Notwithstanding subsection 1, the provisions of this section do not apply to any of the following:</p> <p><i>a.</i> The performance by a health care provider or health facility of an HIV-related test when the health care provider or health facility procures, processes, distributes, or uses a human body part donated for a purpose specified under the revised uniform anatomical gift Act as provided in chapter 142C, or semen provided prior to July 1, 1988, for the purpose of artificial insemination, or donations of blood, and such test is necessary to ensure medical acceptability of such gift or semen for the purposes intended.</p> <p><i>b.</i> A person engaged in the business of insurance who is subject to section 505.16.</p> <p><i>c.</i> The performance by a health care provider or health facility of an HIV-related test when the subject of the test is deceased and a documented significant exposure has occurred.</p> <p><i>d.</i> The performance by a health care provider or health facility of an HIV-related test when the subject of the test is unable to provide consent and the health care provider or health care facility provides consent for the patient pursuant to section 141A.6.</p> <p>3. A person may apply for voluntary treatment, contraceptive services, or screening or treatment for HIV infection and other sexually transmitted diseases directly to a licensed physician and surgeon, an osteopathic physician and surgeon, or a family planning clinic. Notwithstanding any other provision of law, however, a minor shall be informed prior to testing that, upon confirmation according to prevailing medical technology of a positive HIV-related test result, the minor's legal guardian is required to be informed by the testing facility. Testing facilities where minors are tested shall have available a program to assist minors and legal guardians with the notification process which emphasizes the need for family support and assists in making available the resources necessary to accomplish that goal. However, a testing facility which is precluded by federal statute, regulation, or centers for disease control and prevention guidelines from informing the legal guardian is exempt from the notification requirement. The minor shall give written consent to these procedures and to receive the services, screening, or treatment. Such consent is not subject to later disaffirmance</p>

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	by reason of minority.
§ 141A.8	<p>Care provider notification.</p> <p>1. <i>a.</i> Notwithstanding any provision of this chapter to the contrary, if a care provider sustains a significant exposure from an individual, the individual to whom the care provider was exposed is deemed to consent to a test to determine the presence of HIV infection in that individual and is deemed to consent to notification of the care provider of the HIV test results of the individual, upon submission of a significant exposure report by the care provider as provided by rule.</p> <p><i>b.</i> The hospital or clinic in which the exposure occurred or any other person specified in this section to whom the individual is delivered shall conduct the test. If the individual is delivered by the care provider to an institution administered by the Iowa department of corrections, the test shall be conducted by the staff physician of the institution. If the individual is delivered by the care provider to a jail, the test shall be conducted by the attending physician of the jail or the county medical examiner. The sample and test results shall only be identified by a number.</p> <p><i>c.</i> A hospital, institutions administered by the department of corrections, and jails shall have written policies and procedures for notification of a care provider under this section. The policies and procedures shall include designation of a representative of the care provider to whom notification shall be provided and who shall, in turn, notify the care provider. The identity of the designated representative of the care provider shall not be revealed to the individual tested. The designated representative shall inform the hospital, institution administered by the department of corrections, or jail of those parties who received the notification, and following receipt of this information and upon request of the individual tested, the hospital, institution administered by the department of corrections, or jail shall inform the individual of the parties to whom notification was provided.</p> <p>2. <i>a.</i> If the test results are positive, the hospital or other person performing the test shall notify the subject of the test and ensure the performance of counseling and reporting requirements of this chapter in the same manner as for an individual from whom actual consent was obtained. The report to the department required pursuant to section 141A.6 shall include the name of the individual tested.</p> <p><i>b.</i> If the HIV test results of the subject of the test are positive, the hospital or other person performing the test shall notify the care provider or the designated representative of the care provider who shall then notify the care provider who sustained the exposure.</p> <p><i>c.</i> The notification shall be provided as soon as is reasonably possible following determination that the HIV test results of the subject of the test are positive. The notification shall not include the name of the individual tested for HIV infection unless the individual provides a specific written release. If the care provider who sustained the significant exposure determines the identity of the individual tested, the identity of the individual shall be confidential information and shall not be disclosed by the care provider to any other person unless a specific written release is</p>

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	<p>obtained from the individual tested.</p> <p>3. This section does not preclude a hospital or health care provider from providing notification to a care provider under circumstances in which the hospital's or health care provider's policy provides for notification of the hospital's or health care provider's own employees of exposure to HIV infection if the notice does not reveal a patient's name, unless the patient consents.</p> <p>4. A hospital, health care provider, or other person participating in good faith in making a report under the notification provisions of this section, under procedures similar to this section for notification of its own employees upon filing of a significant exposure report, or in failing to make a report under this section, is immune from any liability, civil or criminal, which might otherwise be incurred or imposed.</p> <p>5. A hospital's or health care provider's duty to notify under this section is not continuing but is limited to the diagnosis of HIV infection made in the course of admission, care, and treatment following the rendering of health care services or other services to the individual with the infection to which notification under this section applies.</p> <p>6. Notwithstanding subsection 6, if, following discharge from or completion of care or treatment by a hospital, an individual for whom a significant exposure report was submitted but which report did not result in notification, wishes to provide information regarding the individual's HIV infection status to the care provider who submitted the report, the hospital shall provide a procedure for notifying the care provider.</p> <p>7. A hospital, health care provider, or other person who is authorized to perform an HIV test under this section, who performs the HIV test in compliance with this section or who fails to perform an HIV test authorized under this section, is immune from any liability, civil or criminal, which might otherwise be incurred or imposed.</p> <p>8. A hospital, health care provider, or other person who is authorized to perform a test under this section has no duty to perform the HIV test authorized.</p> <p>9. The employer of a care provider who sustained a significant exposure under this section shall pay the costs of HIV testing for the individual who is the source of the significant exposure and of the testing and counseling of the care provider, if the significant exposure was sustained during the course of employment. However, the department shall assist an individual who is the source of the significant exposure in finding resources to pay for the cost of the HIV test, and shall assist a care provider who renders direct aid without compensation in finding resources to pay for the cost of the testing and counseling.</p>
§ 141A.9	Confidentiality of information.

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	<p>1. Any information, including reports and records, obtained, submitted, and maintained pursuant to this chapter is strictly confidential medical information. The information shall not be released, shared with an agency or institution, or made public upon subpoena, search warrant, discovery proceedings, or by any other means except as provided in this chapter. A person shall not be compelled to disclose the identity of any person upon whom an HIV-related test is performed, or the results of the test in a manner which permits identification of the subject of the test, except to persons entitled to that information under this chapter.</p> <p>2. HIV-related test results shall be made available for release to the following individuals or under the following circumstances:</p> <p><i>a.</i> To the subject of the test or the subject's legal guardian subject to the provisions of section 141A.7, subsection 3, when applicable.</p> <p><i>b.</i> To any person who secures a written release of test results executed by the subject of the test or the subject's legal guardian.</p> <p><i>c.</i> To an authorized agent or employee of a health facility or health care provider, if the health facility or health care provider ordered or participated in the testing or is otherwise authorized to obtain the test results, the agent or employee provides patient care or handles or processes samples, and the agent or employee has a medical need to know such information.</p> <p><i>d.</i> To a health care provider providing care to the subject of the test when knowledge of the test results is necessary to provide care or treatment.</p> <p><i>e.</i> To the department in accordance with reporting requirements for an HIV-related condition.</p> <p><i>f.</i> To a health facility or health care provider which procures, processes, distributes, or uses a human body part from a deceased person with respect to medical information regarding that person, or semen provided prior to July 1, 1988, for the purpose of artificial insemination.</p> <p><i>g.</i> To a person allowed access to an HIV-related test result by a court order which is issued in compliance with the following provisions:</p> <p>(1) A court has found that the person seeking the test results has demonstrated a compelling need for the test results which need cannot be accommodated by other means. In assessing compelling need, the court shall weigh the need for disclosure against the privacy interest of the test subject and the public interest which may be disserved by disclosure due to its deterrent effect on future testing or due to its effect in leading to discrimination.</p> <p>(2) Pleadings pertaining to disclosure of test results shall substitute a pseudonym for the true name of the subject of the test. The disclosure to the parties of the subject's true name shall be communicated confidentially in documents not filed with the court.</p> <p>(3) Before granting an order, the court shall provide the person whose test results are in question with notice and a reasonable opportunity to participate in the proceedings if the person is not already a party.</p> <p>(4) Court proceedings as to disclosure of test results shall be conducted in camera unless the subject of the test agrees to a hearing in open court or unless the court determines that a public hearing is necessary to the public interest and the proper administration of justice.</p> <p>(5) Upon the issuance of an order to disclose test results, the court shall</p>

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	<p>impose appropriate safeguards against unauthorized disclosure, which shall specify the persons who may gain access to the information, the purposes for which the information shall be used, and appropriate prohibitions on future disclosure.</p> <p><i>h.</i> To an employer, if the test is authorized to be required under any other provision of law.</p> <p><i>i.</i> Pursuant to section 915.43, to a convicted or alleged sexual assault offender; the physician or other health care provider who orders the test of a convicted or alleged offender; the victim; the parent, guardian, or custodian of the victim if the victim is a minor; the physician of the victim if requested by the victim; the victim counselor or person requested by the victim to provide counseling regarding the HIV-related test and results; the victim's spouse; persons with whom the victim has engaged in vaginal, anal, or oral intercourse subsequent to the sexual assault; members of the victim's family within the third degree of consanguinity; and the county attorney who may use the results as evidence in the prosecution of sexual assault under chapter 915, subchapter IV, or prosecution of the offense of criminal transmission of HIV under chapter 709C. For the purposes of this paragraph, "<i>victim</i>" means victim as defined in section 915.40.</p> <p><i>j.</i> To employees of state correctional institutions subject to the jurisdiction of the department of corrections, employees of secure facilities for juveniles subject to the department of human services, and employees of city and county jails, if the employees have direct supervision over inmates of those facilities or institutions in the exercise of the duties prescribed pursuant to section 80.9, subsection 2, paragraph "<i>d</i>".</p> <p>3. Release may be made of medical or epidemiological information for statistical purposes in a manner such that no individual person can be identified.</p> <p>4. Release may be made of medical or epidemiological information to the extent necessary to enforce the provisions of this chapter and related rules concerning the treatment, control, and investigation of HIV infection by public health officials.</p> <p>5. Release may be made of medical or epidemiological information to medical personnel to the extent necessary to protect the health or life of the named party.</p> <p>6. Release may be made of test results concerning a patient pursuant to procedures established under section 141A.5, subsection 2, paragraph "c".</p> <p>7. Medical information secured pursuant to subsection 1 may be shared between employees of the department who shall use the information collected only for the purposes of carrying out their official duties in preventing the spread of the disease or the spread of other reportable diseases as defined in section 139A.2.</p>
§ 141A.10	Immunities.

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	<p>1. A person making a report in good faith pursuant to this chapter is immune from any liability, civil or criminal, which might otherwise be incurred or imposed as a result of the report.</p> <p>2. A health care provider attending a person who tests positive for the HIV infection has no duty to disclose to or to warn third parties of the dangers of exposure to HIV infection through contact with that person and is immune from any liability, civil or criminal, for failure to disclose to or warn third parties of the condition of that person.</p>
§ 141A.11	<p>Remedies.</p> <p>1. A person aggrieved by a violation of this chapter shall have a right of civil action for damages in district court.</p> <p>2. A care provider who intentionally or recklessly makes an unauthorized disclosure under this chapter is subject to a civil penalty of one thousand dollars.</p> <p>3. A person who violates a confidentiality requirement of section 141A.5 is guilty of an aggravated misdemeanor.</p> <p>4. A civil action under this chapter is barred unless the action is commenced within two years after the cause of action accrues.</p> <p>5. The attorney general may maintain a civil action to enforce this chapter.</p> <p>6. This chapter does not limit the rights of the subject of an HIV-related test to recover damages or other relief under any other applicable law.</p> <p>7. This chapter shall not be construed to impose civil liability or criminal sanctions for disclosure of HIV-related test results in accordance with any reporting requirement for a diagnosed case of AIDS or a related condition by the department or the centers for disease control and prevention of the United States public health service.</p>

Title VI: Human Services

IA Title VI Code §	Code Language
§ 216.2	<p>"Disability" means the physical or mental condition of a person which constitutes a substantial disability, and the condition of a person with a positive human immunodeficiency virus test result, a diagnosis of acquired immune deficiency syndrome, a diagnosis of acquired immune deficiency syndrome- related complex, or any other condition related to acquired immune deficiency syndrome. The inclusion of a condition related to a positive human immunodeficiency virus test result in the meaning of "disability" under the provisions of this chapter does not preclude the application of the provisions of this chapter to conditions resulting from other contagious or infectious diseases.</p>
§ 216.6	<p>Unfair employment practices.</p> <p>1. It shall be an unfair or discriminatory practice for any: ~ <i>d.</i> Person to solicit or require as a condition of employment of any employee or prospective employee a test for the presence of the antibody to the human immunodeficiency virus or to affect the terms, conditions, or privileges of employment or terminate the employment of any employee solely as a result of the employee obtaining a test for the presence of the antibody to the human immunodeficiency virus. An agreement between an employer, employment agency, labor organization, or their employees, agents, or members and an employee or prospective employee concerning employment, pay, or benefits to an employee or prospective employee in return for taking a test for the presence of the antibody to the human immunodeficiency virus, is prohibited. The prohibitions of this paragraph do not apply if the state epidemiologist determines and the director of public health declares through the utilization of guidelines established by the center for disease control of the United States department of health and human services, that a person with a condition related to acquired immune deficiency syndrome poses a significant risk of transmission of the human immunodeficiency virus to other persons in a specific occupation. ~</p>

Title XIII: Commerce

IA Title XIII Code §	Code Language
§ 505.16	<p>Applications for insurance -- test restrictions -- duties of commissioner.</p> <p>1. A person engaged in the business of insurance shall not require a test of an individual in connection with an application for insurance for the presence of an antibody to the human immunodeficiency virus unless the individual provides a written release on a form approved by the insurance commissioner. The form shall include information regarding the purpose, content, use, and meaning of the test, disclosure of test results including information explaining the effect of releasing the information to a person engaged in the business of insurance, the purpose for which the test results may be used, and other information approved by the insurance commissioner. The form shall also authorize the person performing the test to provide the results of the test to the insurance company subject to rules of confidentiality, consistent with section 141A.9, approved by the insurance commissioner. As used in this section, "a person engaged in the business of insurance" includes hospital service corporations organized under chapter 514 and health maintenance organizations subject to chapter 514B.</p> <p>2. The insurance commissioner shall approve rules for carrying out this section including rules relating to the preparation of information to be provided before and after a test and the protection of confidentiality of personal and medical records of insurance applicants and policyholders. The rules shall require a person engaged in the business of insurance who receives results of a positive human immunodeficiency virus test of an insurance applicant or policyholder to report those results to a physician or alternative testing site of the applicant's or policyholder's choice, or if the applicant or policyholder does not choose a physician or alternative testing site to receive the results, to the Iowa department of public health.</p>

Title XVI: Criminal Law and Procedure	
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IA Title XVI Code §	Code Language
§ 915.40	<p>Definitions.</p> <p>As used in this subchapter, unless the context otherwise requires:</p> <ol style="list-style-type: none"> 1. <i>"AIDS"</i> means acquired immune deficiency syndrome as defined by the centers for disease control of the United States department of health and human services. 2. <i>"Alleged offender"</i> means a person who has been charged with the commission of a sexual assault or a juvenile who has been charged in juvenile court with being a delinquent as the result of actions that would constitute a sexual assault. 3. <i>"Authorized representative"</i> means an individual authorized by the victim to request an HIV-related test of a convicted or alleged offender who is any of the following: <ol style="list-style-type: none"> a. The parent, guardian, or custodian of the victim if the victim is a minor. b. The physician of the victim. c. The victim counselor or person requested by the victim to provide counseling regarding the HIV-related test and results. d. The victim's spouse. e. The victim's legal counsel. 4. <i>"Convicted offender"</i> means a person convicted of a sexual assault or a juvenile who has been adjudicated delinquent for an act of sexual assault. 5. <i>"Department"</i> means the Iowa department of public health. 6. <i>"Division"</i> means the crime victims assistance division of the office of the attorney general. 7. <i>"HIV"</i> means the human immunodeficiency virus identified as the causative agent of AIDS. 8. <i>"HIV-related test"</i> means a test for the antibody or antigen to HIV. 9. <i>"Petitioner"</i> means a person who is the victim of a sexual assault which resulted in alleged significant exposure or the parent, guardian, or custodian of a victim if the victim is a minor, for whom the county attorney files a petition with the district court to require the convicted offender to undergo an HIV-related test. 10. <i>"Sexual assault"</i> means sexual abuse as defined in section 709.1, or any other sexual offense by which a victim has allegedly had sufficient contact with a convicted or an alleged offender to be deemed a significant exposure. 11. <i>"Significant exposure"</i> means contact of the victim's ruptured or

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	<p>broken skin or mucous membranes with the blood or bodily fluids, other than tears, saliva, or perspiration of the convicted or alleged offender. "<i>Significant exposure</i>" is presumed to have occurred when there is a showing that there was penetration of the convicted or alleged offender's penis into the victim's vagina or anus, contact between the mouth and genitalia, or contact between the genitalia of the convicted or alleged offender and the genitalia or anus of the victim.</p> <p>12. "<i>Victim</i>" means a petitioner or a person who is the victim of a sexual assault which resulted in significant exposure, or the parent, guardian, or custodian of such a victim if the victim is a minor, for whom the victim or the peace officer files an application for a search warrant to require the alleged offender to undergo an HIV-related test. "<i>Victim</i>" includes an alleged victim.</p> <p>13. "<i>Victim counselor</i>" means a person who is engaged in a crime victim center as defined in section 915.20A, who is certified as a counselor by the crime victim center, and who has completed at least twenty hours of training provided by the Iowa coalition against sexual assault or a similar agency.</p>
§ 915.42	<p>Right to HIV-testing of convicted or alleged assailant.</p> <p>1. Unless a petitioner chooses to be represented by private counsel, the county attorney shall represent the victim's interest in all proceedings under this subchapter.</p> <p>2. If a person is convicted of sexual assault or adjudicated delinquent for an act of sexual assault, the county attorney, if requested by the petitioner, shall petition the court for an order requiring the convicted offender to submit to an HIV-related test, provided that all of the following conditions are met:</p> <p>a. The sexual assault for which the offender was convicted or adjudicated delinquent included sufficient contact between the victim and the convicted offender to be deemed a significant exposure pursuant to section 915.40.</p> <p>b. The authorized representative of the petitioner, the county attorney, or the court sought to obtain written informed consent from the convicted offender to the testing.</p> <p>c. Written informed consent was not provided by the convicted offender.</p> <p>3. If a person is an alleged offender, the county attorney, if requested by the victim, shall make application to the court for the issuance of a search warrant, in accordance with chapter 808, for the purpose of requiring the alleged offender to submit to an HIV-related test, if all of the following conditions are met:</p> <p>a. The application states that the victim believes that the sexual assault for which the alleged offender is charged included sufficient contact between the victim and the alleged offender to be deemed a significant exposure pursuant to section 915.40 and states the factual basis for the belief that a significant exposure exists.</p>

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	<p><i>b.</i> The authorized representative of the victim, the county attorney, or the court sought to obtain written informed consent to the testing from the alleged offender.</p> <p><i>c.</i> Written informed consent was not provided by the alleged offender.</p> <p>4. Upon receipt of the petition or application filed under subsection 2 or 3, the court shall:</p> <p><i>a.</i> Prior to the scheduling of a hearing, refer the victim for counseling by a victim counselor or a person requested by the victim to provide counseling regarding the nature, reliability, and significance of the HIV-related test and of the serologic status of the convicted or alleged offender.</p> <p><i>b.</i> Schedule a hearing to be held as soon as is practicable.</p> <p><i>c.</i> Cause written notice to be served on the convicted or alleged offender who is the subject of the proceeding, in accordance with the rules of civil procedure relating to the service of original notice, or if the convicted or alleged offender is represented by legal counsel, provide written notice to the convicted or alleged offender and the convicted or alleged offender's legal counsel.</p> <p><i>d.</i> Provide for the appointment of legal counsel for a convicted or alleged offender if the convicted or alleged offender desires but is financially unable to employ counsel.</p> <p><i>e.</i> Furnish legal counsel with copies of the petition or application, written informed consent, if obtained, and copies of all other documents related to the petition or application, including, but not limited to, the charges and orders.</p> <p>5. <i>a.</i> A hearing under this section shall be conducted in an informal manner consistent with orderly procedure and in accordance with the Iowa rules of evidence. The hearing shall be limited in scope to the review of questions of fact only as to the issue of whether the sexual assault for which the offender was convicted or adjudicated delinquent or for which the alleged offender was charged provided sufficient contact between the victim and the convicted or alleged offender to be deemed a significant exposure, and to questions of law.</p> <p><i>b.</i> In determining whether the contact should be deemed a significant exposure for a convicted offender, the court shall base the determination on the testimony presented during the proceedings on the sexual assault charge, the minutes of the testimony or other evidence included in the court record, or if a plea of guilty was entered, based upon the complaint or upon testimony provided during the hearing. In determining whether the contact should be deemed a significant exposure for an alleged offender, the court shall base the determination on the application and the factual basis provided in the application for the belief of the applicant that a significant exposure exists.</p> <p><i>c.</i> The victim may testify at the hearing but shall not be compelled to testify. The court shall not consider the refusal of a victim to testify at the hearing as material to the court's decision regarding issuance of an order or search warrant requiring testing.</p> <p><i>d.</i> The hearing shall be in camera unless the convicted or alleged offender and the petitioner or victim agree to a hearing in open court and the court</p>

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	<p>approves. The report of the hearing proceedings shall be sealed and no report of the proceedings shall be released to the public, except with the permission of all parties and the approval of the court.</p> <p>e. Stenographic notes or electronic or mechanical recordings shall be taken of all court hearings unless waived by the parties.</p> <p>6. Following the hearing, the court shall require a convicted or alleged offender to undergo an HIV-related test only if the petitioner or victim proves all of the following by a preponderance of the evidence:</p> <p>a. The sexual assault constituted a significant exposure.</p> <p>b. An authorized representative of the petitioner or victim, the county attorney, or the court sought to obtain written informed consent from the convicted or alleged offender.</p> <p>c. Written informed consent was not provided by the convicted or alleged offender.</p> <p>7. A convicted offender who is required to undergo an HIV-related test may appeal to the court for review of questions of law only, but may appeal questions of fact if the findings of fact are clearly erroneous.</p>
§ 915.43	<p>Testing, reporting, and counseling -- penalties.</p> <p>1. The physician or other practitioner who orders the test of a convicted or alleged offender for HIV under this subchapter shall disclose the results of the test to the convicted or alleged offender, and to the victim counselor or a person requested by the victim to provide counseling regarding the HIV-related test and results who shall disclose the results to the petitioner.</p> <p>2. All testing under this chapter shall be accompanied by counseling as required under section 141A.7.</p> <p>3. Subsequent testing arising out of the same incident of exposure shall be conducted in accordance with the procedural and confidentiality requirements of this subchapter.</p> <p>4. Results of a test performed under this subchapter, except as provided in subsection 13, shall be disclosed only to the physician or other practitioner who orders the test of the convicted or alleged offender, the convicted or alleged offender, the victim, the victim counselor or person requested by the victim to provide counseling regarding the HIV-related test and results, the physician of the victim if requested by the victim, the parent, guardian, or custodian of the victim, if the victim is a minor, and the county attorney who filed the petition for HIV-related testing under this chapter, who may use the results to file charges of criminal transmission of HIV under chapter 709C. Results of a test performed under this subchapter shall not be disclosed to any other person without the written informed consent of the convicted or alleged offender. A person to whom the results of a test have been disclosed under this subchapter is subject to the confidentiality provisions of section 141A.9, and shall not disclose the results to another person except as authorized by section 141A.9, subsection 1, paragraph "i".</p>

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	<p>5. If testing is ordered under this subchapter, the court shall also order periodic testing of the convicted offender during the period of incarceration, probation, or parole or of the alleged offender during a period of six months following the initial test if the physician or other practitioner who ordered the initial test of the convicted or alleged offender certifies that, based upon prevailing scientific opinion regarding the maximum period during which the results of an HIV-related test may be negative for a person after being HIV-infected, additional testing is necessary to determine whether the convicted or alleged offender was HIV-infected at the time the sexual assault or alleged sexual assault was perpetrated. The results of the test conducted pursuant to this subsection shall be released only to the physician or other practitioner who orders the test of the convicted or alleged offender, the convicted or alleged offender, the victim counselor or person requested by the victim to provide the counseling regarding the HIV-related test and results who shall disclose the results to the petitioner, the physician of the victim, if requested by the victim, and the county attorney who may use the results as evidence in the prosecution of the sexual assault or in the prosecution of the offense of criminal transmission of HIV under chapter 709C.</p> <p>6. The court shall not consider the disclosure of an alleged offender's serostatus to an alleged victim, prior to conviction, as a basis for a reduced plea or reduced sentence.</p> <p>7. The fact that an HIV-related test was performed under this subchapter and the results of the test shall not be included in the convicted offender's medical or criminal record unless otherwise included in department of corrections records.</p> <p>8. The fact that an HIV-related test was performed under this subchapter and the results of the test shall not be used as a basis for further prosecution of a convicted offender in relation to the incident which is the subject of the testing, to enhance punishments, or to influence sentencing.</p> <p>9. If the serologic status of a convicted offender, which is conveyed to the victim, is based upon an HIV-related test other than a test which is authorized as a result of the procedures established in this subchapter, legal protections which attach to such testing shall be the same as those which attach to an initial test under this subchapter, and the rights to a prediscovery hearing and to appeal provided under section 915.42 shall apply.</p> <p>10. HIV-related testing required under this subchapter shall be conducted by the state hygienic laboratory.</p> <p>11. Notwithstanding the provisions of this subchapter requiring initial testing, if a petition is filed with the court under section 915.42 requesting an order for testing and the order is granted, and if a test has previously been performed on the convicted or alleged offender while under the</p>

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	<p>control of the department of corrections, the test results shall be provided in lieu of the performance of an initial test of the convicted or alleged offender, in accordance with this subchapter.</p> <p>12. In addition to the counseling received by a victim, referral to appropriate health care and support services shall be provided.</p> <p>13. In addition to persons to whom disclosure of the results of a convicted or alleged offender's HIV-related test results is authorized under this subchapter, the victim may also disclose the results to the victim's spouse, persons with whom the victim has engaged in vaginal, anal, or oral intercourse subsequent to the sexual assault, or members of the victim's family within the third degree of consanguinity.</p> <p>14. A person to whom disclosure of a convicted or alleged offender's HIV-related test results is authorized under this subchapter shall not disclose the results to any other person for whom disclosure is not authorized under this subchapter. A person who intentionally or recklessly makes an unauthorized disclosure in violation of this subsection is subject to a civil penalty of one thousand dollars. The attorney general or the attorney general's designee may maintain a civil action to enforce this subchapter. Proceedings maintained under this subsection shall provide for the anonymity of the test subject and all documentation shall be maintained in a confidential manner.</p>
§ 709C.1	<p>CRIMINAL TRANSMISSION OF HUMAN IMMUNODEFICIENCY VIRUS</p> <p>1. A person commits criminal transmission of the human immunodeficiency virus if the person, knowing that the person's human immunodeficiency virus status is positive, does any of the following:</p> <ol style="list-style-type: none"> a. Engages in intimate contact with another person. b. Transfers, donates, or provides the person's blood, tissue, semen, organs, or other potentially infectious bodily fluids for transfusion, transplantation, insemination, or other administration to another person. c. Dispenses, delivers, exchanges, sells, or in any other way transfers to another person any nonsterile intravenous or intramuscular drug paraphernalia previously used by the person infected with the human immunodeficiency virus. <p>2. For the purposes of this section:</p> <ol style="list-style-type: none"> a. "Human immunodeficiency virus" means the human immunodeficiency virus identified as the causative agent of acquired immune deficiency syndrome. b. "Intimate contact" means the intentional exposure of the body of one person to a bodily fluid of another person in a manner that could result in the transmission of the human immunodeficiency virus. c. "Intravenous or intramuscular drug paraphernalia" means any equipment, product, or material of any kind which is peculiar to and marketed for use in injecting a substance into or withdrawing a bodily fluid from the human body.

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	<p>3. Criminal transmission of the human immunodeficiency virus is a class "B" felony.</p> <p>4. This section shall not be construed to require that an infection with the human immunodeficiency virus has occurred for a person to have committed criminal transmission of the human immunodeficiency virus.</p> <p>5. It is an affirmative defense that the person exposed to the human immunodeficiency virus knew that the infected person had a positive human immunodeficiency virus status at the time of the action of exposure, knew that the action of exposure could result in transmission of the human immunodeficiency virus, and consented to the action of exposure with that knowledge.</p>

Iowa Administrative Code - Title 641: Public Health Department

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191— 15.12(507B)	<p>Testing restrictions of insurance applications for the human immunodeficiency virus.</p> <p>15.12(1) Written release. No insurer shall obtain a test of any individual in connection with an application for insurance for the presence of an antibody to the human immunodeficiency virus unless the individual to be tested provides a written release on a form which contains the following information:</p> <ul style="list-style-type: none"> a. A statement of the purpose, content, use, and meaning of the test. b. A statement regarding disclosure of the test results including information explaining the effect of releasing the information to an insurer. c. A statement of the purpose for which test results may be used. <p>15.12(2) Form. A preapproved form is provided in Appendix II. An insurer wishing to utilize a form which deviates from the language in the appendix to these rules shall submit the form to the insurance division for approval. Any form containing, but not limited to, the language in the appendix shall be deemed approved.</p> <p>15.12(3) Test results. A person engaged in the business of insurance who receives results of a positive human immunodeficiency virus (HIV) test in connection with an application for insurance shall report those results to a physician or alternative testing site of the applicant's or policyholder's choice or, if the applicant or policyholder does not choose a physician or alternative testing site to receive the results, to the Iowa department of public health.</p>
641— 11.29(141)	<p>Reporting of test results to the department.</p> <p>(1) Each laboratory shall ensure that:</p> <ul style="list-style-type: none"> a. Written procedures have been established for reporting test results and release of information. b. All test results are reviewed by the director, or a qualified designee, prior to reporting. c. All test results are clearly identified and that appropriate interpretive information is included with the HIV test report. <p>(2) Within seven days of the receipt of a person's confirmed positive test result indicating HIV infection, the director of a blood plasma center, blood bank, clinical laboratory or public health laboratory that performed the test or that requested the confirmatory test shall make a report to the department on a form provided by the department. The report shall include:</p> <ul style="list-style-type: none"> a. The person's age, race, marital status and other information deemed necessary by the department for epidemiological purposes or as much of

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	<p>that information as the director may possess, but shall not include the person's name or address without the written authorization of the person.</p> <p>b. The name, address and telephone number of the blood plasma center, blood bank, clinical laboratory or public health laboratory that performed or requested the test.</p> <p>c. The address of the physician or other health care practitioner that requested the test. This paragraph, however, shall not apply to a blood plasma center or blood bank.</p> <p>NOTE: Iowa Code requires the performance of a confirmatory test for any screening test result which is reactive. However, only confirmatory test results that are positive are to be reported to the department.</p>
641— 11.35(141)	<p>Training Programs</p> <p>(1) Nonemergency personnel. All supervisory and patient care personnel of any agency listed below shall complete a minimum of two hours of training concerning acquired immune deficiency syndrome-related conditions:</p> <ul style="list-style-type: none"> a. A licensed hospice, b. A homemaker-home health aide provider agency which receives state homemaker-home health aide funds, or c. An agency which provides respite care services and receives funds. <p>NOTE: New employees shall complete the training within six months of their initial employment. Existing employees shall complete the training on or before January 1, 1989. AIDS education programs conducted on or after January 1, 1987, shall count as satisfying the two-hour requirement when attendance and course content can be verified.</p> <p>(2) Content. Training programs must address the following topics:</p> <ul style="list-style-type: none"> a. HIV disease processes, b. Signs and symptoms, c. Transmission, d. High-risk activities, e. Prevention recommendations, and f. Universal precautions according to the following Morbidity and Mortality Weekly Reports published by the U.S. Department of Health and Human Services, Public Health Service, Centers for Disease Control, Atlanta, Georgia 30333: <ul style="list-style-type: none"> (1) Volume 36, Number 2S, Supplement, dated August 21, 1987, entitled "Recommendations for Prevention of HIV Transmission in Health-Care Settings," and (2) Volume 37, Number 24, dated June 24, 1988, entitled "Update: Universal Precautions for Prevention of Transmission of Human Immunodeficiency Virus, Hepatitis B Virus, and Other Bloodborne Pathogens in Health-Care Settings." <p>(3) Emergency and law enforcement personnel. All emergency medical services personnel, firefighters, and law enforcement personnel shall complete a minimum of two hours of training concerning acquired immune deficiency syndrome-related conditions and the prevention of human</p>

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	<p>immunodeficiency virus infection.</p> <p>(4) Content. Training programs must address the following topics:</p> <ul style="list-style-type: none"> a. HIV disease processes, b. Signs and symptoms, c. Transmission, d. High-risk activities, e. Prevention recommendations, and f. Universal precautions according to the following Morbidity and Mortality Weekly Reports published by the U.S. Department of Health and Human Services, Public Health Service, Centers for Disease Control, Atlanta, Georgia 30333: <ul style="list-style-type: none"> (1) Volume 36, Number 2S, Supplement, dated August 21, 1987, entitled "Recommendations for Prevention of HIV Transmission in Health-Care Settings," and (2) Volume 37, Number 24, dated June 24, 1988, entitled "Update: Universal Precautions for Prevention of Transmission of Human Immunodeficiency Virus, Hepatitis B Virus, and Other Bloodborne Pathogens in Health-Care Settings."
641— 11.72(709B)	<p>HIV test—convicted or alleged sexual assault offender.</p> <p>(1) Unless a petitioner chooses to be represented by private counsel, the county attorney shall represent the victim's interest in all proceedings under Iowa Code chapter <u>709B</u>.</p> <p>(2) If a person is convicted of sexual assault or adjudicated delinquent for an act of sexual assault, the county attorney, if requested by the petitioner, shall petition the court for an order requiring the convicted offender to submit to an HIV test, provided that all of the following conditions are met:</p> <ul style="list-style-type: none"> a. The sexual assault for which the offender was convicted or adjudicated delinquent included sufficient contact between the victim and the convicted offender to be deemed a significant exposure pursuant to <u>641—11.71(709B)</u>. b. The authorized representative of the petitioner, the county attorney, or the court sought to obtain written informed consent to the testing from the convicted offender. c. Written informed consent was not provided by the convicted offender. <p>(3) If a person is an alleged offender, the county attorney, if requested by the victim, shall make application to the court for the issuance of a search warrant, in accordance with Iowa Code chapter <u>808</u>, for the purpose of requiring the alleged offender to submit to an HIV test, if all of the following conditions are met:</p> <ul style="list-style-type: none"> a. The applicant states that the victim believes that the sexual assault for which the alleged offender is charged included sufficient contact between the victim and the alleged offender to be deemed a significant exposure pursuant to <u>641—11.71(709B)</u> and states the factual basis for the belief that a significant exposure exists.

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	<p>b. The authorized representative of the victim, the county attorney, or the court sought to obtain written informed consent to the testing from the alleged offender.</p> <p>c. Written informed consent was not provided by the alleged offender.</p> <p>(4) Upon receipt of the petition or application, the court shall:</p> <p>a. Prior to the scheduling of a hearing, refer the victim for counseling by a victim counselor or a person requested by the victim who is authorized to provide the counseling required pursuant to Iowa Code section <u>141.22</u>, regarding the nature, reliability and significance of the HIV test and of any test results of the convicted offender. The counselor shall have a certificate of attendance from the department of public health–sponsored workshop on HIV serologic test counseling.</p> <p>b. Schedule a hearing to be held as soon as is practicable.</p> <p>c. Cause written notice to be served on the convicted or alleged offender who is the subject of the proceeding, in accordance with the Iowa Rules of Civil Procedure relating to the service of original notice, or if the convicted or alleged offender is represented by legal counsel, provide written notice to the convicted or alleged offender and the convicted or alleged offender’s legal counsel.</p> <p>d. Provide for the appointment of legal counsel for a convicted or alleged offender if the convicted or alleged offender desires but is financially unable to employ counsel.</p> <p>e. Furnish legal counsel with copies of the petition or application, written informed consent, if obtained, and copies of all other documents related to the petition or application, including, but not limited to, the charges and orders.</p> <p>(5) A hearing under these rules shall be conducted in an informal manner consistent with orderly procedure and in accordance with the Iowa Rules of Evidence.</p> <p>a. The hearing shall be limited in scope to the review of questions of fact only as to the issue of whether the sexual assault for which the offender was convicted or adjudicated delinquent or for which the alleged offender was charged provided sufficient contact between the victim and the convicted or alleged offender to be deemed a significant exposure, and to questions of law.</p> <p>b. In determining whether the contact should be deemed a significant exposure for a convicted offender, the court shall base the determination on the testimony presented during the proceedings on the sexual assault charge, the minutes of the testimony or other evidence included in the court record, or if a plea of guilty was entered, based upon the complaint or upon testimony provided during the hearing. In determining whether the contact should be deemed a significant exposure for an alleged offender, the court shall base the determination on the application and the factual basis provided in the application for the belief of the applicant that a significant exposure exists.</p> <p>c. The victim may testify at the hearing, but shall not be compelled to testify. The court shall not consider the refusal of a victim to testify at the hearing as material to the court’s decision regarding issuance of an order</p>

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	<p>or search warrant requiring testing.</p> <p>d. The hearing shall be in camera unless the convicted or alleged offender and the petitioner or victim agree to a hearing in open court and the court approves. The report of the hearing proceedings shall be sealed and no report of the proceeding shall be released to the public, except with the permission of all parties and the approval of the court.</p> <p>e. Stenographic notes or electronic or mechanical recording shall be taken of all court hearings unless waived by the parties.</p> <p>(6) Following the hearing, the court shall require a convicted or alleged offender to undergo an HIV test only if the petitioner or victim proves all of the following by a preponderance of evidence.</p> <p>a. The sexual assault constituted a significant exposure.</p> <p>b. An authorized representative of the petitioner, the county attorney, or the court sought to obtain written informed consent from the convicted or alleged offender.</p> <p>c. Written informed consent was not provided by the convicted or alleged offender.</p> <p>(7) A convicted offender who is required to undergo an HIV test may appeal to the court for review of questions of law only, but may appeal questions of fact if the findings of fact are clearly erroneous.</p>
641-11.72 (709B)	<p>Testing, reporting, and counseling-penalties.</p> <p>11.74(1) The physician or other practitioner who orders the test of a convicted or alleged offender for HIV under Iowa Code chapter 709B shall disclose the results of the test to the convicted or alleged offender, and to the victim counselor or a person requested by the victim who is authorized to provide the counseling required pursuant to Iowa Code section 141.22 , who shall disclose the results to the petitioner.</p> <p>11.74(2) All testing under this chapter shall be accompanied by pretest and posttest counseling as required under Iowa Code section 141.22 . The department of public health may be contacted for brochures that may assist in meeting the requirements of Iowa Code section 141.22 .</p> <p>11.74(3) Subsequent testing arising out of the same incident of exposure shall be conducted in accordance with the procedural and confidentiality requirements of 641-11.70 (709B) to 641-11.74 (709B).</p> <p>11.74(4) Results of a test performed under 641-11.70 (709B) to 641-11.74 (709B), except as provided in subrule 11.74 (6), shall be disclosed only to the physician or other practitioner who orders the test of the convicted or alleged offender, the convicted or alleged offender, the victim, the victim counselor or person requested by the victim who is authorized to provide the counseling required pursuant to Iowa Code section 141.22 , the physician of the victim if requested by the victim, the parent, guardian, or custodian of the victim, if the victim is a minor, and the county attorney who filed the petition for the HIV testing under 641-11.70 (709B) to 641-</p>

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	<p>11.74 (709B), who may use the results to file charges of criminal transmission of HIV. Results of a test performed under these rules shall not be disclosed to any other person without the written, informed consent of the convicted or alleged offender. A person to whom the results of a test have been disclosed under 641-11.70 (709B) to 641-11.74 (709B) is subject to the confidentiality provision of Iowa Code section 141.23 , and shall not disclose the results to another person except as authorized by Iowa Code section 141.23 , subsection 1.</p> <p>11.74(5) If HIV testing is ordered under 641-11.70 (709B) to 641-11.74 (709B), the court shall also order periodic testing of the convicted offender during the period of incarceration, probation, or parole or of the alleged offender during a period of six months following the initial test if the physician or other practitioner who ordered the initial test of the convicted or alleged offender certifies that, based upon prevailing scientific opinion regarding the maximum period during which the results of an HIV test may be negative for a person after being HIV-infected, additional testing is necessary to determine whether the convicted or alleged offender was HIV-infected at the time the sexual assault or alleged sexual assault was perpetrated. The results of the test conducted pursuant to subrule 11.74 (6) shall be released only to the physician or other practitioner who orders the test of the convicted or alleged offender, the convicted or alleged offender, the victim counselor or person requested by the victim who is authorized to provide the counseling required pursuant to Iowa Code section 141.22 , who shall disclose the results to the petitioner, the physician of the victim if requested by the victim and the county attorney who may use the results as evidence in the prosecution of the sexual assault or in the prosecution of the offense of criminal transmission of HIV.</p> <p>11.74(6) The court shall not consider the disclosure of an alleged offender's serostatus to an alleged victim, prior to conviction, as a basis for a reduced plea or reduced sentence.</p> <p>11.74(7) The fact that an HIV test was performed under 641-11.70 (709B) to 641-11.74 (709B) and the results of the tests shall not be included in the convicted offender's medical or criminal record unless otherwise included in department of corrections records.</p> <p>11.74(8) The fact that an HIV test was performed under 641-11.70 (709B) to 641-11.74 (709B) and the results of the test shall not be used as a basis for further prosecution of a convicted offender in relation to the incident which is the subject of the testing, to enhance punishments, or to influence sentencing.</p> <p>11.74(9) If the serologic status of a convicted offender, which is conveyed to the victim, is based upon an HIV test other than a test which is authorized as a result of the procedures established in 641-11.70 (709B) to 641-11.74 (709B), legal protections which attach to such testing shall be the same as those which attach to an initial test under 641-11.70 (709B) to 641-11.74 (709B), and the rights to a prediscovery hearing and</p>

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	<p>to appeal provided under 1998 Iowa Acts, House File 2527, section 35, shall apply.</p> <p>11.74(10) HIV testing required under 641-11.70 (709B) to 641-11.74 (709B) shall be conducted by the state hygienic laboratory.</p> <p>11.74(11) Notwithstanding the provision of these rules requiring initial testing, if a petition is filed with the court under 1998 Iowa Acts, House File 2527, section 35, requesting an order for testing and the order is granted, and if a test has previously been performed on the convicted offender while under the control of the department of corrections, the test results shall be provided in lieu of the performance of an initial test of the convicted offender, in accordance with 641-11.70 (709B) to 641-11.74 (709B).</p> <p>11.74(12) Test results shall not be disclosed to a convicted offender who elects against disclosure.</p> <p>11.74(13) In addition to the counseling received by a victim, referral to appropriate health care and support services shall be provided. Referral information is available at state alternate test sites. Alternate test site information is available from the Iowa department of public health, STD/HIV prevention program, telephone (515)281-4936.</p> <p>11.74(14) In addition to persons to whom disclosure of the results of a convicted or alleged offender's HIV test results is authorized under these rules, the victim may also disclose the results to the victim's spouse, persons with whom the victim has engaged in vaginal, anal, or oral intercourse subsequent to the sexual assault, or members of the victim's family within the third degree of consanguinity.</p> <p>11.74(15) A person to whom disclosure of a convicted offender's HIV test results is authorized under these rules shall not disclose the results to any other person for whom disclosure is not authorized under these rules. A person who intentionally or recklessly makes an unauthorized disclosure in violation of this subrule is subject to a civil penalty of \$1000. The attorney general or the attorney general's designee may maintain a civil action to enforce these rules. Proceedings maintained under this subrule shall provide for the anonymity of the test subject, and all documentation shall be maintained in a confidential manner.</p>