

Michigan

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April 8, 2011

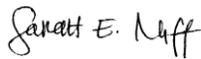
To the Reader:

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

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

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

Thank you,



Sarah E. Neff, MPH
Director of Research and Evaluation

&



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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>

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A Quick Reference Guide for Clinicians to Michigan HIV Testing Laws

April 8, 2011

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

Informed Consent

- Informed consent must be documented in the patient medical records; may be written or verbal and through the opt-out process.
- Informed consent may be incorporated into consent for general medical care, tests, and procedures.

Counseling

- Pre- and post-test information is required.

Provisos of Testing

- **Anonymous**
 - Testing must be available anonymously.
- **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 and treatment.
- Physicians may, but are not required to, notify the parents of the HIV test results.

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Perinatal Quick Reference Guide:

A Guide to Michigan Perinatal HIV Testing Laws for Clinicians

April 8, 2011

This Perinatal Quick Reference Guide for clinicians is a summary of relevant Michigan 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 Michigan 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 at the initial visit for prenatal care is required unless medically inadvisable or consent is not given; may be through the opt-out process.

Labor & Delivery

- Testing of pregnant women presenting to labor or delivery or for care immediately postpartum at a health care facility with undocumented HIV status is required unless testing is medically inadvisable or consent is not given; may be through the opt-out process.

Neonatal

- No specific provisions regarding neonatal testing were found.

Other

- N/A

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State Policies Relating to HIV Testing, 2011

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Michigan Compiled Laws Service [MCLS]

Chapter 333: Health.....	Pages 4-34
Chapter 791: Department of Corrections.....	Pages 35-39

Michigan Administrative Code [MAC]

Department of Consumer and Industry Services.....	Pages 40-41
Department of Labor and Economic Growth.....	Pages 42

	Policy Category	Type	Section Code(s)
RESTRICTIONS/ MANDATES	Restrictions on use of HIV test	No related laws found	
	Mandatory testing within the criminal justice system	Potential transmission to victim	MCLS §333.5129
		All inmates	MCLS §791.267
		All prisoners before release for parole or discharged	MCLS §791.237a
		Occupational exposure – prison employees	MCLS §791.267b
	Mandatory testing outside of the criminal justice system	Semen donations	MCLS §333.16273 MCLS §333.20179
		Occupational exposure – emergency medical services, police officers, firefighters	MCLS §333.20191 MCLS §333.5204 MCLS §333.5205
		Blood/organ/anatomical donations	MCLS §333.9123
Boxing contestants		MAC R 339.235	
PRE-TESTING	Mandatory offering of HIV/AIDS information and/or testing	Persons seeking marriage licenses must receive HIV information	MCLS §333.5119
		Occupational exposure to bloodborne pathogens	MAC R 325.70013
		The department, MI board of medicine, and MI board of osteopathic medicine and surgery shall make HIV pretest information available to physicians and provide copies upon request.	MCLS §333.5133 (4) and (7)

		All persons seeking HIV testing must receive information; information may be given orally	MCLS §333.5133
		State must sponsor free HIV testing for all residents and non-resident students	MCLS §333.5923
	Informed consent	Written or verbal informed consent with right to decline (opt-out) and documentation maintained in patient medical record; may be incorporated into consent for general medical care, tests, and procedures.	MCLS §333.5133
	Counseling requirements	Mandatory pre- and post-test information; prevention counseling not required	MCLS §333.5133 MCLS §333.5923
		Counseling shall be provided for inmates undergoing testing	MCLS §791.267
		Voluntary counseling for individuals arrested and charged with certain crimes	MCLS §333.5129
		Prisoners who test positive for HIV when tested before parole/discharge	MCLS §791.237a
	Anonymous testing	Testing sites must offer anonymous testing	MCLS §333.5133
POST-TESTING	Disclosure/confidentiality	Disclosure to patient of negative HIV test results through normal health care provider procedures, including, but not limited to, a patient visit, mail, or telephone.	MCLS §333.5133 (12)
		Partner notification mandatory; notification of both applicants for a marriage license of positive test results for one	MCLS §333.5114a MCLS §333.5119
		Exceptions to confidentiality	MCLS §333.5131
		Physician must disclose to funeral director	MCLS §333.2843b
		Results disclosed to local health department and physician that gave treatment to pregnant woman or newborn	MCLS §333.5123
	Reporting	Name-based reporting	MCLS §333.5114
H	Testing of pregnant women and/or	Pregnant women in prenatal care	MCLS §333.5123

newborns	– opt-out testing	
	Women presenting to labor and delivery or for care immediately postpartum at a health care facility with undocumented HIV status unless medically inadvisable – opt-out testing	MCLS §333.5123
Testing of minors/adolescents	Minors may consent to HIV treatment	MCLS §333.5127
	Treating physician may, but is not required to, inform the parent, guardian, or spouse	MCLS §333.5127
Rapid HIV testing	No related laws found	
Training and education of health care providers	No related laws found	

Recommended Resources

How to Find Current Michigan Statutes

http://www.michigan.gov/hal/0,1607,7-160-17449_18639_18656-52423--,00.html

Michigan Administrative Code

http://www.michigan.gov/cis/0,1607,7-154-10576_35738_5698---,00.html

Michigan Department of Community Health

<http://www.michigan.gov/mdch>

Michigan Legislature

<http://legislature.mi.gov>

Michigan HIV Laws: How They Affect Physicians and Other Health Care Providers

[Jan 06]

http://www.michigan.gov/documents/mihivlaws_49845_7.pdf

Chapter 333: Health

MI Chapter 333 Code §	Code Language
§ 333.2843b	<p>Physician having actual knowledge of presence in deceased individual of infectious agent; notification of funeral director or authorized agent; refusal to render services prohibited; effective date of subsection (1); confidentiality; rules; violation as misdemeanor.</p> <p>(1) If, at the time of death, a physician who is required to complete the medical certification under section 2843(1)(a) has actual knowledge of the presence in the deceased individual of an infectious agent, including acquired immunodeficiency syndrome-related virus, the physician shall notify the funeral director or the funeral director's authorized agent of the appropriate infection control precautions to be taken. The notification required by this subsection shall occur before the body is released to the funeral director or the funeral director's authorized agent. A funeral director or funeral director's authorized agent who receives notification under this subsection shall not refuse to render services as a result of having received the notification. This subsection shall take effect on the effective date of the rules required by subsection (3).</p> <p>(2) The information contained in the notification required by subsection (1) shall be confidential. A person who receives confidential information under this section shall disclose the information to others only to the extent consistent with the authorized purpose for which the information was obtained.</p>
§ 333.5101	<p>Definitions and principles of construction.</p> <p>(1) As used in this article:</p> <p>(a) "Care" includes treatment, control, transportation, confinement, and isolation in a facility or other location.</p> <p>(b) "Communicable disease" means an illness due to a specific infectious agent or its toxic products that results from transmission of that infectious agent or its products from a reservoir to a susceptible host, directly as from an infected individual or animal, or indirectly through the agency of an intermediate plant or animal host, vector, or the inanimate environment.</p> <p>(c) "HIV" means human immunodeficiency virus.</p> <p>(d) "HIV infection" or "HIV infected" means the status of an individual who has tested positive for HIV, as evidenced by either a double positive enzyme-linked immunosorbent assay test, combined with a positive western blot assay test, or a positive result under an HIV test that is considered reliable by the federal centers for disease control and prevention and is approved by the department.</p> <p>(e) "Immunization" means the process of increasing an individual's immunity to a disease by use of a vaccine, antibody preparation, or other substance.</p> <p>(f) "Infection" means the invasion of the body with microorganisms or parasites, whether or not the invasion results in detectable pathologic</p>

MI Chapter 333 Code §	Code Language
	<p>effects.</p> <p>(g) "Serious communicable disease or infection" means a communicable disease or infection that is designated as serious by the department pursuant to this part. Serious communicable disease or infection includes, but is not limited to, HIV infection, acquired immunodeficiency syndrome, venereal disease, and tuberculosis.</p> <p>(h) "Venereal disease" means syphilis, gonorrhea, chancroid, lymphogranuloma venereum, granuloma inguinale, and other sexually transmitted diseases that the department may designate and require to be reported under section 5111.</p> <p>(2) In addition, article 1 contains general definitions and principles of construction applicable to all articles in this code.</p>
§ 333.5114	<p>HIV infected test subject; report; form; encoded individual case files.</p> <p>(1) Except as otherwise provided in this section, a person or governmental entity that obtains from a test subject a test result that indicates that the test subject is HIV infected or from a test subject who has already been diagnosed as HIV infected a test result ordered to evaluate immune system status, to quantify HIV levels, or to diagnose acquired immunodeficiency syndrome shall, within 7 days after obtaining a diagnostic test result or, for a nondiagnostic test result, within a time frame as determined by the department, report to the appropriate local health department or, if requested by the local health department, to the department on a form provided by the department or through electronic methods approved by the department all of the following information, if available:</p> <p>(a) The name and address of the person or governmental entity that submits the report.</p> <p>(b) The name, address, and telephone number of the health care provider who diagnosed the test subject or who ordered the test.</p> <p>(c) The name, date of birth, race, sex, address, and telephone number of the test subject.</p> <p>(d) The date on which the specimen was collected for testing.</p> <p>(e) The type of test performed.</p> <p>(f) The test result.</p> <p>(g) If known, whether or not the test subject has tested positive for the presence of HIV or an antibody to HIV on a previous occasion.</p> <p>(h) The probable method of transmission.</p> <p>(i) The purpose of the test.</p> <p>(j) Any other medical or epidemiological information considered necessary by the department for the surveillance, control, and prevention of HIV infections. Information added by the department under this subdivision shall be promulgated as rules.</p> <p>(2) An individual who undergoes a test for HIV or an antibody to HIV in a physician's private practice office or the office of a physician employed by or under contract to a health maintenance organization or who submits a</p>

MI Chapter 333 Code §	Code Language
	<p>specimen for either of those tests to that physician may request that the report made by the physician under this section not include the name, address, and telephone number of the test subject. Except as otherwise provided in section 5114a, if such a request is made under this subsection, the physician shall comply with the request and submit the specimen to the laboratory without the name, address, or telephone number of the test subject.</p> <p>(3) A local health department shall not maintain a roster of names obtained under this section, but shall maintain individual case files that are encoded to protect the identities of the individual test subjects.</p>
§ 333.5114a	<p>Referral of individual to local health department; assistance with partner notification; information; legal obligation to inform sexual partners; criminal sanctions; partner notification program; confidentiality; priority duty of local health department; retention of reports, records, and data; information exempt from disclosure; biennial report.</p> <p>(1) A person or governmental entity that administers a test for HIV or an antibody to HIV to an individual shall refer the individual to the appropriate local health department for assistance with partner notification if both of the following conditions are met:</p> <ul style="list-style-type: none"> (a) The test results indicate that the individual is HIV infected. (b) The person or governmental entity that administered the test determines that the individual needs assistance with partner notification. <p>(2) A person or governmental entity that refers an individual to a local health department under subsection (1) shall provide the local health department with information determined necessary by the local health department to carry out partner notification. Information required under this subsection may include, but is not limited to, the name, address, and telephone number of the individual test subject.</p> <p>(3) A local health department to which an individual is referred under subsection (1) shall inform the individual that he or she has a legal obligation to inform each of his or her sexual partners of the individual's HIV infection before engaging in sexual relations with that sexual partner, and that the individual may be subject to criminal sanctions for failure to so inform a sexual partner.</p> <p>(4) A partner notification program operated by a local health department shall include notification of individuals who are sexual or hypodermic needle-sharing partners of the individual tested under subsection (1). Partner notification shall be confidential and conducted in the form of a direct, one-to-one conversation between the employee of the local health department and the partner of the test subject.</p> <p>(5) If a local health department receives a report under section 5114(1) that indicates that a resident of this state or an individual located in this</p>

MI Chapter 333 Code §	Code Language
	<p>state is HIV infected, the local health department shall make it a priority to do all of the following:</p> <p>(a) Attempt to interview the individual and offer to contact the individual's sexual partners and, if applicable, hypodermic needle-sharing or drug-sharing partners. If the subject of the report is determined to have been infected with HIV in utero, the local health department shall attempt to interview the individual's parent or legal guardian, or both. The interview conducted under this subdivision shall be voluntary on the part of the individual being interviewed. The interview or attempted interview required under this subdivision shall be performed by a local health department within 14 days after receipt of a report under section 5114(1).</p> <p>(b) Within 35 days after the interview conducted pursuant to subdivision (a), confidentially, privately, and in a discreet manner contact each individual identified as a sexual or hypodermic needle-sharing or drug-sharing partner regarding the individual's possible exposure to HIV. The local health department shall not reveal to an individual identified as a partner the identity of the individual who has tested positive for HIV or an antibody to HIV except if authorized to do so by the individual who named the contact, and if needed to protect others from exposure to HIV or from transmitting HIV. The local health department shall provide each individual interviewed under subdivision (a) and each individual contacted under this subdivision with all of the following information:</p> <p>(i) Available medical tests for HIV, an antibody to HIV, and any other indicator of HIV infection.</p> <p>(ii) Steps to take in order to avoid transmission of HIV.</p> <p>(iii) Other information considered appropriate by the department.</p> <p>(6) The reports, records, and data of a local health department pertaining to information acquired under this section shall be retained by the local health department for not more than 90 days after the date of receipt or for a period established by rule of the department.</p> <p>(7) Information acquired by the department or a local health department under this section or section 5114 is exempt from disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.</p> <p>(8) The department in consultation with local health departments shall submit a biennial report to the standing committees in the senate and house of representatives responsible for legislation pertaining to public health on the effect of this section on the department's efforts to monitor and control HIV infection and acquired immunodeficiency syndrome. The report shall include, but not be limited to, statistics on the total number of index cases reported, the total number of index cases reported with information identifying the test subject or a partner of the test subject, and the total number of partners actually contacted under this section, and an assessment of the effectiveness of the program, and recommendations to improve the effectiveness of the program, if any. The statistics included in the report shall be broken down by local health department jurisdiction.</p>

MI Chapter 333 Code §	Code Language
§ 333.5119	<p>Individual applying for marriage license; availability of tests for venereal disease and HIV infection; educational materials; informing HIV infected applicants of test results; definitions.</p> <p>(1) An individual applying for a marriage license shall be advised through the distribution of written educational materials by the county clerk regarding prenatal care and the transmission and prevention of venereal disease and HIV infection. The written educational materials shall describe the availability to the applicant of tests for both venereal disease and HIV infection. The information shall include a list of locations where HIV counseling and testing services funded by the department are available. The written educational materials shall be approved or prepared by the department.</p> <p>(2) A county clerk shall not issue a marriage license to an applicant who fails to sign and file with the county clerk an application for a marriage license that includes a statement with a check-off box indicating that the applicant has received the educational materials regarding the transmission and prevention of both venereal disease and HIV infection and has been advised of testing for both venereal disease and HIV infection, pursuant to subsection (1).</p> <p>(3) If either applicant for a marriage license undergoes a test for HIV or an antibody to HIV, and if the test results indicate that an applicant is HIV infected, the physician or a designee of the physician, the physician's assistant, the certified nurse midwife, or the certified nurse practitioner or the local health officer or designee of the local health officer administering the test immediately shall inform both applicants of the test results, and shall counsel both applicants regarding the modes of HIV transmission, the potential for HIV transmission to a fetus, and protective measures.</p> <p>(4) As used in this section:</p> <p>(a) "Certified nurse midwife" means an individual licensed as a registered professional nurse under part 172 who has been issued a specialty certification in the practice of nurse midwifery by the board of nursing under section 17210.</p> <p>(b) "Certified nurse practitioner" means an individual licensed as a registered professional nurse under part 172 who has been issued a specialty certification as a nurse practitioner by the board of nursing under section 17210.</p> <p>(c) "Physician" means an individual licensed as a physician under part 170 or an osteopathic physician under part 175.</p> <p>(d) "Physician's assistant" means an individual licensed as a physician's assistant under part 170 or part 175.</p>
§ 333.5121	<p>Prohibited conduct; misdemeanor.</p> <p>A person who commits any of the following acts is guilty of a misdemeanor:</p>

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	<p>(a) A county clerk who issues a marriage license to an individual who fails to present a certificate required under section 5119(2).</p> <p>(b) A person who knows that an applicant for a marriage license has taken a test for venereal disease or HIV infection, or both, under section 5119(1), and who discloses either the fact that the applicant has taken the test or the results of the test, or both, except as required by law, and except as provided under section 5131.</p> <p>(c) A physician who knowingly and willfully makes a false statement in a certificate given by the physician under section 5119.</p>
§ 333.5123	<p>Initial examination of pregnant woman or woman recently delivering infant; test specimens required; exceptions; record; availability of test results and records.</p> <p>(1) A physician or an individual otherwise authorized by law to provide medical treatment to a pregnant woman shall take or cause to be taken, at the time of the woman's initial examination, test specimens of the woman and shall submit the specimens to a clinical laboratory approved by the department for the purpose of performing tests approved by the department for venereal disease, HIV or an antibody to HIV, and for hepatitis B. If, when a woman presents at a health care facility to deliver an infant or for care in the immediate postpartum period having recently delivered an infant outside a health care facility, no record of results from the tests required by this subsection is readily available to the physician or individual otherwise authorized to provide care in such a setting, then the physician or individual otherwise authorized to provide care shall take or cause to be taken specimens of the woman and shall submit the specimens to a clinical laboratory approved by the department for the purpose of performing department approved tests for venereal disease, for HIV or an antibody to HIV, and for hepatitis B. This subsection does not apply if, in the professional opinion of the physician or other person, the tests are medically inadvisable or the woman does not consent to be tested.</p> <p>(2) The physician or other individual described in subsection (1) shall make and retain a record showing the date the tests required under subsection (1) were ordered and the results of the tests. If the tests were not ordered by the physician or other person, the record shall contain an explanation of why the tests were not ordered.</p> <p>(3) The test results and the records required under subsection (2) are not public records, but shall be available to a local health department and to a physician who provides medical treatment to the woman or her offspring.</p>
§ 333.5127	<p>Minor infected with venereal disease or HIV; consent to treatment; informing spouse, parent, guardian, or person in loco parentis; financial responsibility.</p> <p>(1) Subject to section 5133, the consent to the provision of medical or</p>

MI Chapter 333 Code §	Code Language
	<p>surgical care, treatment, or services by a hospital, clinic, or physician that is executed by a minor who is or professes to be infected with a venereal disease or HIV is valid and binding as if the minor had achieved the age of majority. The consent is not subject to later disaffirmance by reason of minority. The consent of any other person, including a spouse, parent, or guardian, or person in loco parentis, is not necessary to authorize the services described in this subsection to be provided to a minor.</p> <p>(2) For medical reasons a treating physician, and on the advice and direction of the treating physician, a physician, a member of the medical staff of a hospital or clinic, or other health professional, may, but is not obligated to, inform the spouse, parent, guardian, or person in loco parentis as to the treatment given or needed. The information may be given to or withheld from these persons without consent of the minor and notwithstanding the express refusal of the minor to the providing of the information.</p> <p>(3) A spouse, parent, guardian, or person in loco parentis of a minor is not financially responsible for surgical care, treatment, or services provided under this section.</p>
§ 333.5129	<p>Individuals arrested and charged, bound over, or convicted of certain crimes; examination or testing for certain diseases; information and counseling; providing name, address, and telephone number of victim; providing test results to victim; transmitting test results and other medical information; confidentiality; referral of individual for appropriate medical care; financial responsibility; applicability of subsections (2), (3), and (4) to certain individuals; costs; definitions.</p> <p>Sec. 5129. (1) An individual arrested and charged with violating section 448, 449, 449a, 450, 452, or 455 of the Michigan penal code, 1931 PA 328, MCL 750.448, 750.449, 750.449a, 750.450, 750.452, and 750.455, or a local ordinance prohibiting prostitution or engaging or offering to engage the services of a prostitute may, upon order of the court, be examined or tested to determine whether the individual has venereal disease, hepatitis B infection, hepatitis C infection, HIV infection, or acquired immunodeficiency syndrome. Examination or test results that indicate the presence of venereal disease, hepatitis B infection, hepatitis C infection, HIV infection, or acquired immunodeficiency syndrome shall be reported to the defendant and, pursuant to sections 5114 and 5114a, to the department and the appropriate local health department for partner notification.</p> <p>(2) Except as otherwise provided in this section, if an individual is arrested and charged with violating section 145a, 338, 338a, 338b, 448, 449, 449a, 450, 452, 455, 520b, 520c, 520d, 520e, or 520g of the Michigan penal code, 1931 PA 328, MCL 750.145a, 750.338, 750.338a, 750.338b, 750.448, 750.449, 750.449a, 750.450, 750.452, 750.455,</p>

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	<p>750.520b, 750.520c, 750.520d, 750.520e, and 750.520g, or section 7404 by intravenously using a controlled substance, or a local ordinance prohibiting prostitution, solicitation, gross indecency, or the intravenous use of a controlled substance, the judge or magistrate responsible for setting the individual's conditions of release pending trial shall distribute to the individual the information on venereal disease and HIV transmission required to be distributed by county clerks under section 5119(1) and shall recommend that the individual obtain additional information and counseling at a local health department testing and counseling center regarding venereal disease, hepatitis B infection, hepatitis C infection, HIV infection, and acquired immunodeficiency syndrome. Counseling under this subsection shall be voluntary on the part of the individual.</p> <p>(3) If a defendant is bound over to circuit court or recorder's court for a violation of section 145a, 338, 338a, 338b, 450, 452, 455, 520b, 520c, 520d, 520e, or 520g of the Michigan penal code, 1931 PA 328, MCL 750.145a, 750.338, 750.338a, 750.338b, 750.450, 750.452, 750.455, 750.520b, 750.520c, 750.520d, 750.520e, and 750.520g, and the district court determines there is reason to believe the violation involved sexual penetration or exposure to a body fluid of the defendant, the district court shall order the defendant to be examined or tested for venereal disease, hepatitis B infection, and hepatitis C infection and for the presence of HIV or an antibody to HIV. Except as provided in subsection (5), (6), or (7), or as otherwise provided by law, the examinations and tests shall be confidentially administered by a licensed physician, the department of community health, or a local health department. The court also shall order the defendant to receive counseling regarding venereal disease, hepatitis B infection, hepatitis C infection, HIV infection, and acquired immunodeficiency syndrome, including, at a minimum, information regarding treatment, transmission, and protective measures.</p> <p>(4) Except as otherwise provided in this section, upon conviction of a defendant or the issuance by the probate court of an order adjudicating a child to be within the provisions of section 2(a)(1) of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.2, for violating section 145a, 338, 338a, 338b, 448, 449, 449a, 450, 452, 455, 520b, 520c, 520d, 520e, or 520g of the Michigan penal code, 1931 PA 328, MCL 750.145a, 750.338, 750.338a, 750.338b, 750.448, 750.449, 750.449a, 750.450, 750.452, 750.455, 750.520b, 750.520c, 750.520d, 750.520e, and 750.520g, or section 7404 by intravenously using a controlled substance, or a local ordinance prohibiting prostitution, solicitation, gross indecency, or the intravenous use of a controlled substance, the court having jurisdiction of the criminal prosecution or juvenile hearing shall order the defendant or child to be examined or tested for venereal disease, hepatitis B infection, and hepatitis C infection and for the presence of HIV or an antibody to HIV. Except as provided in subsection (5), (6), or (7), or as otherwise provided by law, the examinations and tests shall be confidentially administered by a licensed physician, the</p>

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	<p>department of community health, or a local health department. The court also shall order the defendant or child to receive counseling regarding venereal disease, hepatitis B infection, hepatitis C infection, HIV infection, and acquired immunodeficiency syndrome, including, at a minimum, information regarding treatment, transmission, and protective measures.</p> <p>(5) If the victim or person with whom the defendant or child found to be within the provisions of section 2(a)(1) of chapter XIIIA of the probate code of 1939, 1939 PA 288, MCL 712A.2, engaged in sexual penetration or sexual contact or who was exposed to a body fluid during the course of the crime consents, the court or probate court shall provide the person or agency conducting the examinations or administering the tests under subsection (3) or (4) with the name, address, and telephone number of the victim or person with whom the defendant or child engaged in sexual penetration or sexual contact or who was exposed to a body fluid of the defendant during the course of the crime. If the victim or person with whom the defendant or child engaged in sexual penetration during the course of the crime is a minor or otherwise incapacitated, the victim's or person's parent, guardian, or person in loco parentis may give consent for purposes of this subsection. After the defendant or child is examined or tested as to the presence of venereal disease, of hepatitis B infection, of hepatitis C infection, or of HIV or an antibody to HIV, the person or agency conducting the examinations or administering the tests shall immediately provide the examination or test results to the victim or person with whom the defendant or child found to be within the provisions of section 2(a)(1) of chapter XIIIA of the probate code of 1939, 1939 PA 288, MCL 712A.2, engaged in sexual penetration or sexual contact or who was exposed to a body fluid during the course of the crime and shall refer the victim or other person for appropriate counseling.</p> <p>(6) The examination or test results and any other medical information obtained from the defendant or child found to be within the provisions of section 2(a)(1) of chapter XIIIA of the probate code of 1939, 1939 PA 288, MCL 712A.2, by the person or agency conducting the examinations or administering the tests under subsection (3) or (4) shall be transmitted to the court or probate court and, after the defendant or child is sentenced or an order of disposition is entered, made part of the court record, but are confidential and shall be disclosed only to 1 or more of the following:</p> <ul style="list-style-type: none"> (a) The defendant or child. (b) The local health department. (c) The department. (d) The victim or other person required to be informed of the results under this subsection or subsection (5) or, if the victim or other person is a minor or otherwise incapacitated, to the victim's or other person's parent, guardian, or person in loco parentis. (e) Upon written authorization of the defendant or child found to be within the provisions of section 2(a)(1) of chapter XIIIA of the probate

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	<p>code of 1939, 1939 PA 288, MCL 712A.2, or the child's parent, guardian, or person in loco parentis.</p> <p>(f) As otherwise provided by law.</p> <p>(7) If the defendant is placed in the custody of the department of corrections, the court shall transmit a copy of the defendant's examination and test results and other medical information to the department of corrections. If the child found to be within the provisions of section 2(a)(1) of chapter XIIIA of the probate code of 1939, 1939 PA 288, MCL 712A.2, is placed by the probate court in the custody of a person related to the child or a public or private agency, institution, or facility, the probate court shall transmit a copy of the child's examination or test results to the person related to the child or the director of the agency, institution, or facility. A person or agency that discloses information in compliance with this subsection or subsection (6) is not civilly or criminally liable for making the disclosure. A person or agency that receives test results or other medical information pertaining to HIV infection or acquired immunodeficiency syndrome under this subsection or subsection (6) is subject to section 5131 and shall not disclose the test results or other medical information except as specifically permitted under that section.</p> <p>(8) If an individual receives counseling or is examined or tested under this section and is found to be infected with a venereal disease, hepatitis B, or hepatitis C or to be HIV infected, the individual shall be referred by the agency providing the counseling or testing for appropriate medical care. The department, the local health department, or any other agency providing counseling or testing under this section is not financially responsible for medical care received by an individual as a result of a referral made under this subsection.</p> <p>(9) The requirements for the distribution of information concerning venereal disease, counseling concerning venereal disease, and examining or testing for venereal disease under subsections (2), (3), and (4) do not apply to an individual charged with or convicted of violating section 7404 by intravenously using a controlled substance or violating a local ordinance prohibiting the intravenous use of a controlled substance.</p> <p>(10) The court may, upon conviction or the issuance by the probate court of an order adjudicating a child to be within the provisions of section 2(a)(1) of chapter XIIIA of the probate code of 1939, 1939 PA 288, MCL 712A.2, order an individual who is examined or tested under this section to pay the actual and reasonable costs of that examination or test incurred by the licensed physician or local health department that administered the examination or test.</p> <p>(11) An individual who is ordered to pay the costs of an examination or test under subsection (10) shall pay those costs within 30 days after the order is issued or as otherwise provided by the court. The amount ordered to be paid under subsection (10) shall be paid to the clerk of the</p>

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	<p>court, who shall transmit the appropriate amount to the physician or local health department named in the order. If an individual is ordered to pay a combination of fines, costs, restitution, assessments, probation or parole supervision fees, or other payments upon conviction in addition to the costs ordered under subsection (10), the payments shall be allocated as provided under the probate code of 1939, 1939 PA 288, MCL 710.21 to 712A.32, the code of criminal procedure, 1927 PA 175, MCL 760.1 to 777.69, and the crime victim's rights act, 1985 PA 87, MCL 780.751 to 780.834. An individual who fails to pay the costs within the 30-day period or as otherwise ordered by the court is guilty of a misdemeanor punishable by imprisonment for not more than 90 days or a fine of not more than \$100.00, or both.</p> <p>(12) As used in this section:</p> <p>(a) "Sexual contact" includes the intentional touching of the victim's or actor's intimate parts or the intentional touching of the clothing covering the immediate area of the victim's or actor's intimate parts, if that intentional touching can reasonably be construed as being for the purpose of sexual arousal or gratification.</p> <p>(b) "Sexual penetration" means sexual intercourse, cunnilingus, fellatio, anal intercourse, or any other intrusion, however slight, of any part of a person's body or of any object into the genital or anal openings of another person's body, but emission of semen is not required.</p> <p>(c) "Victim" includes, but is not limited to, a person subjected to criminal sexual conduct in violation of section 520b, 520c, 520d, 520e, or 520g of the Michigan penal code, 1931 PA 328, MCL 750.520b, 750.520c, 750.520d, 750.520e, and 750.520g.</p>
§ 333.5131	<p>Serious communicable diseases or infections of HIV infection and acquired immunodeficiency syndrome; confidentiality of reports, records, data, and information; test results; limitations and restrictions on disclosures in response to court order and subpoena; information released to legislative body; applicability of subsection (1); immunity; identification of individual; violation as misdemeanor; penalty.</p> <p>Sec. 5131. (1) All reports, records, and data pertaining to testing, care, treatment, reporting, and research, and information pertaining to partner notification under section 5114a, that are associated with the serious communicable diseases or infections of HIV infection and acquired immunodeficiency syndrome are confidential. A person shall release reports, records, data, and information described in this subsection only pursuant to this section.</p> <p>(2) Except as otherwise provided by law, the test results of a test for HIV infection or acquired immunodeficiency syndrome and the fact that such a test was ordered is information that is subject to section 2157 of the revised judicature act of 1961, 1961 PA 236, MCL 600.2157.</p> <p>(3) The disclosure of information pertaining to HIV infection or acquired</p>

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	<p>immunodeficiency syndrome in response to a court order and subpoena is limited to only the following cases and is subject to all of the following restrictions:</p> <p>(a) A court that is petitioned for an order to disclose the information shall determine both of the following:</p> <p>(i) That other ways of obtaining the information are not available or would not be effective.</p> <p>(ii) That the public interest and need for the disclosure outweigh the potential for injury to the patient.</p> <p>(b) If a court issues an order for the disclosure of the information, the order shall do all of the following:</p> <p>(i) Limit disclosure to those parts of the patient's record that are determined by the court to be essential to fulfill the objective of the order.</p> <p>(ii) Limit disclosure to those persons whose need for the information is the basis for the order.</p> <p>(iii) Include such other measures as considered necessary by the court to limit disclosure for the protection of the patient.</p> <p>(4) A person who releases information pertaining to HIV infection or acquired immunodeficiency syndrome to a legislative body shall not identify in the information a specific individual who was tested or is being treated for HIV infection or acquired immunodeficiency syndrome.</p> <p>(5) Subject to subsection (7), subsection (1) does not apply to the following:</p> <p>(a) Information pertaining to an individual who is HIV infected or has been diagnosed as having acquired immunodeficiency syndrome, if the information is disclosed to the department, a local health department, or other health care provider for 1 or more of the following purposes:</p> <p>(i) To protect the health of an individual.</p> <p>(ii) To prevent further transmission of HIV.</p> <p>(iii) To diagnose and care for a patient.</p> <p>(b) Information pertaining to an individual who is HIV infected or has been diagnosed as having acquired immunodeficiency syndrome, if the information is disclosed by a physician or local health officer to an individual who is known by the physician or local health officer to be a contact of the individual who is HIV infected or has been diagnosed as having acquired immunodeficiency syndrome, if the physician or local health officer determines that the disclosure of the information is necessary to prevent a reasonably foreseeable risk of further transmission of HIV. This subdivision imposes an affirmative duty upon a physician or local health officer to disclose information pertaining to an individual who is HIV infected or has been diagnosed as having acquired immunodeficiency syndrome to an individual who is known by the physician or local health officer to be a contact of the individual who is HIV infected or has been diagnosed as having acquired immunodeficiency syndrome. A physician or local health officer may discharge the affirmative duty imposed under this subdivision by referring the individual who is HIV infected or has been diagnosed as having acquired</p>

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	<p>immunodeficiency syndrome to the appropriate local health department for assistance with partner notification under section 5114a. The physician or local health officer shall include as part of the referral the name and, if available, address and telephone number of each individual known by the physician or local health officer to be a contact of the individual who is HIV infected or has been diagnosed as having acquired immunodeficiency syndrome.</p> <p>(c) Information pertaining to an individual who is HIV infected or has been diagnosed as having acquired immunodeficiency syndrome, if the information is disclosed by an authorized representative of the department or by a local health officer to an employee of a school district, and if the department representative or local health officer determines that the disclosure is necessary to prevent a reasonably foreseeable risk of transmission of HIV to pupils in the school district. An employee of a school district to whom information is disclosed under this subdivision is subject to subsection (1).</p> <p>(d) Information pertaining to an individual who is HIV infected or has been diagnosed as having acquired immunodeficiency syndrome, if the disclosure is expressly authorized in writing by the individual. This subdivision applies only if the written authorization is specific to HIV infection or acquired immunodeficiency syndrome. If the individual is a minor or incapacitated, the written authorization may be executed by the parent or legal guardian of the individual.</p> <p>(e) Information disclosed under section 5114, 5114a, 5119(3), 5129, 5204, or 20191 or information disclosed as required by rule promulgated under section 5111.</p> <p>(f) Information pertaining to an individual who is HIV infected or has been diagnosed as having acquired immunodeficiency syndrome, if the information is part of a report required under the child protection law, 1975 PA 238, MCL 722.621 to 722.638.</p> <p>(g) Information pertaining to an individual who is HIV infected or has been diagnosed as having acquired immunodeficiency syndrome, if the information is disclosed by the department of human services, the probate court, or a child placing agency in order to care for a minor and to place the minor with a child care organization licensed under 1973 PA 116, MCL 722.111 to 722.128. The person disclosing the information shall disclose it only to the director of the child care organization or, if the child care organization is a private home, to the individual who holds the license for the child care organization. An individual to whom information is disclosed under this subdivision is subject to subsection (1). As used in this subdivision, "child care organization" and "child placing agency" mean those terms as defined in section 1 of 1973 PA 116, MCL 722.111.</p> <p>(6) A person who releases the results of an HIV test or other information described in subsection (1) in compliance with subsection (5) is immune from civil or criminal liability and administrative penalties including, but not limited to, licensure sanctions, for the release of that information.</p> <p>(7) A person who discloses information under subsection (5) shall not</p>

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	<p>include in the disclosure information that identifies the individual to whom the information pertains, unless the identifying information is determined by the person making the disclosure to be reasonably necessary to prevent a foreseeable risk of transmission of HIV. This subsection does not apply to information disclosed under subsection (5)(d), (f), or (g).</p> <p>(8) A person who violates this section is guilty of a misdemeanor, punishable by imprisonment for not more than 1 year or a fine of not more than \$5,000.00, or both, and is liable in a civil action for actual damages or \$1,000.00, whichever is greater, and costs and reasonable attorney fees. This subsection also applies to the employer of a person who violates this section, unless the employer had in effect at the time of the violation reasonable precautions designed to prevent the violation.</p>
§ 333.5133	<p>Information; pretest information; informed consent to HIV test; documentation; distribution of information; HIV test performed on anonymous basis; partner notification; HIV test performed for purpose of research; inapplicability of section; conditions; informing patient of test results.</p> <p>Sec. 5133. (1) Except as otherwise provided in this section, a physician who orders an HIV test or a health facility that performs an HIV test shall provide information appropriate to the test subject both before and after the test is administered.</p> <p>(2) Except as otherwise provided in this part, a physician, or an individual to whom the physician has delegated authority to perform a selected act, task, or function under section 16215, shall not order an HIV test for the purpose of diagnosing HIV infection without first providing the test subject with pretest information and receiving the informed consent of the test subject. For purposes of this section, informed consent means a written or verbal consent to the test by the test subject or the legally authorized representative of the test subject. The physician or health facility shall document the provision of informed consent, including pretest information, and whether the test subject or the legally authorized representative of the test subject declined the offer of HIV testing. Informed consent for HIV testing shall be maintained in the patient's medical records.</p> <p>(3) Beginning January 1, 2011, pretest information shall include all of the following:</p> <ul style="list-style-type: none"> (a) An explanation of the test, including, but not limited to, the purpose of the test, the potential uses and limitations of the test, and the meaning of test results. (b) An explanation of how HIV is transmitted and how HIV can be prevented.

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	<p>(c) An explanation of the rights of the test subject, including, but not limited to, all of the following:</p> <p>(i) The right to decline the test at any time before the administration of the test and the circumstances under which the test subject does not have the right to decline the test.</p> <p>(ii) The right to confidentiality of the test results under this part and under the health insurance portability and accountability act of 1996, Public Law 104-191.</p> <p>(iii) The right under this part to consent to and participate in the test on an anonymous basis.</p> <p>(iv) The person or class of persons to whom the test results may be disclosed under this part and under the health insurance portability and accountability act of 1996, Public Law 104-191.</p> <p>(4) The department, the Michigan board of medicine, and the Michigan board of osteopathic medicine and surgery shall make the information required under subsection (3) available to physicians. The Michigan board of medicine and the Michigan board of osteopathic medicine and surgery shall notify in writing all physicians subject to this section of the requirements of this section and the availability of the information by January 1, 2011. Upon request, the Michigan board of medicine and the Michigan board of osteopathic medicine and surgery shall provide copies of the information, free of charge, to a physician who is subject to this section.</p> <p>(5) A test subject who executes a signed writing pursuant to subsection (2) as that subsection read before September 1, 2010 is barred from subsequently bringing a civil action based on failure to obtain informed consent for the HIV test against the physician who ordered the HIV test.</p> <p>(6) The department shall develop the information required under subsection (3) in clear, nontechnical English and Spanish, and provide the information upon request and free of charge, to a physician or other person or a governmental entity that is subject to this section. Nothing in this section prohibits a physician or health facility from combining a form used to obtain informed consent for HIV testing with forms used to obtain consent for general medical care or any other medical tests or procedures if the forms make clear that the subject may consent to general medical care, tests, or medical procedures without being required to consent to HIV testing and, if applicable, that the subject may decline HIV testing at any time before the administration of the test.</p> <p>(7) In addition to complying with the duties imposed under subsection (6), the department shall provide copies of the information required under subsection (3) to the Michigan board of medicine and the Michigan board of osteopathic medicine and surgery. The department shall provide</p>

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	<p>copies of the information to other persons upon written request, at cost, and shall also provide copies of the information free of charge, upon request, to public or private schools, colleges, and universities.</p> <p>(8) An individual who undergoes an HIV test at a department approved testing site may request that the HIV test be performed on an anonymous basis. If an individual requests that the HIV test be performed on an anonymous basis, the staff of the department approved testing site shall administer the HIV test anonymously or under the condition that the test subject not be identified, and shall obtain consent to the test using a coded system that does not link the individual's identity with the request for the HIV test or the HIV test results. If the test results of an HIV test performed under this subsection indicate that the test subject is HIV infected, the staff of the department approved testing site shall proceed with partner notification in the same manner in which a local health department would proceed as described in section 5114a(3) to (5).</p> <p>(9) This section does not apply to an HIV test performed for the purpose of research, if the test is performed in such a manner that the identity of the test subject is not revealed to the researcher and the test results are not made known to the test subject.</p> <p>(10) Except as otherwise provided in subsection (12), this section does not apply to an HIV test performed upon a patient in a health facility if the conditions in subdivisions (a) and (b) or the conditions in subdivisions (a) and (c) are met:</p> <p>(a) The patient is informed in writing upon admission to the health facility that an HIV test may be performed upon the patient without his or her right to decline under circumstances described in subdivision (b) or (c). As used in this subdivision, "admission" means the provision of an inpatient or outpatient health care service in a health facility.</p> <p>(b) The HIV test is performed after a health professional, health facility employee, police officer, or fire fighter, or a medical first responder, emergency medical technician, emergency medical technician specialist, or paramedic licensed under section 20950 or 20952 sustains in the health facility, while treating the patient before transport to the health facility, or while transporting the patient to the health facility, a percutaneous, mucous membrane, or open wound exposure to the blood or other body fluids of the patient.</p> <p>(c) The HIV test is performed pursuant to a request made under section 20191(2).</p> <p>(11) Except as otherwise provided in subsection (12), this section does not apply if the test subject is unable to receive or understand the information described in subsections (1) to (3) or to decline the test as described in subsection (2), and the legally authorized representative of the test subject is not readily available to receive the information or decline for the test subject.</p>

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	<p>(12) If the results of an HIV test performed under this section indicate that the patient is HIV infected, the health facility shall inform the patient of the positive test results and provide the patient with appropriate counseling regarding HIV infection and acquired immunodeficiency syndrome. If the results of an HIV test performed under this section indicate that the patient is not HIV infected, that information shall be provided to the patient through normal health care provider procedures, including, but not limited to, a patient visit, mail, or telephone communication.</p>
§ 333.5204	<p>Request for testing made by officer, employee, or individual making lawful arrest; procedures.</p> <p>Sec. 5204. (1) A police officer, a fire fighter, a local correctional officer or other county employee, a court employee, or an individual making a lawful arrest may proceed under this section if he or she has received training in the transmission of bloodborne diseases under the rules governing exposure to bloodborne diseases in the workplace promulgated by the occupational health standards commission or incorporated by reference under the Michigan occupational safety and health act, 1974 PA 154, MCL 408.1001 to 408.1094.</p> <p>(2) A police officer, a fire fighter, a local correctional officer or other county employee, a court employee, or an individual making a lawful arrest who has received the training described in subsection (1) and who, while performing his or her official duties or otherwise performing the duties of his or her employment, determines that he or she has sustained a percutaneous, mucous membrane, or open wound exposure to the blood or body fluids of an arrestee, correctional facility inmate, parolee, or probationer may request that the arrestee, correctional facility inmate, parolee, or probationer be tested for HIV infection, HBV infection, HCV infection, or all 3 infections, pursuant to this section.</p> <p>(3) An officer or employee or an individual making a lawful arrest who desires to make a request described in subsection (2) shall make the request to his or her employer in writing on a form provided by the department as soon as possible, but not later than 72 hours, after the exposure occurs. The request form shall be dated and shall contain, at a minimum, the name and address of the officer, employee, or individual making a lawful arrest making the request and a description of his or her exposure to the blood or other body fluids of the arrestee, correctional facility inmate, parolee, or probationer. The request form shall also contain a statement that the requester is subject to the confidentiality requirements of subsection (7) and section 5131. The request form shall not contain information that would identify the arrestee, correctional facility inmate, parolee, or probationer by name, except if necessary to identify the individual for purposes of testing under this section.</p> <p>(4) The employer of an individual making a request under subsections (2) and (3) shall accept as fact the requester's description of his or her</p>

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	<p>exposure to blood or other body fluids as described in subsection (2). The requester's employer shall have the test for HIV infection, HBV infection, HCV infection, or all 3 infections performed by the local health department or by a health care provider designated by the local health department. If the test subject consents to the performance of the test or tests named in the request, the requester's employer shall transport the test subject to the local health department or designated health care provider for testing, or a representative of the local health department or designated health care provider shall come to where the test subject is held or housed to take a blood or other body fluid sample for testing, as soon as practicable after the local health department receives the request for testing from the requester's employer. If the test subject refuses to undergo 1 or more tests specified in the request, the requester's employer may proceed with a petition to the family division of the circuit court in the manner provided in section 5205 or 5207, as appropriate.</p> <p>(5) A local health department or a health care provider designated by the local health department that performs 1 or more tests under this section may charge the officer or employee or arresting individual requesting the test for the reasonable and customary charges of each test. The officer or employee or arresting individual requesting the test is responsible for the payment of the charges if the charges are not payable by the officer's or employee's or arresting individual's employer, pursuant to an agreement between the officer or employee or arresting individual and the employer, or by the officer's or employee's or arresting individual's health care payment or benefits plan. A local health department or a health care provider designated by the local health department to perform an HIV test under this section is not required to provide HIV counseling pursuant to section 5133(1) to an officer or employee or arresting individual who requests that an arrestee, correctional facility inmate, parolee, or probationer be tested for HIV under this section, unless the local health department or designated health care provider tests the officer or employee or arresting individual for HIV.</p> <p>(6) A local health department or a health care provider designated by the local health department to perform a test under this section shall, on a form provided by the department, notify the requesting officer or employee or arresting individual of the HIV test, HBV test, or HCV test results, as applicable, whether positive or negative, within 2 days after the test results are obtained by the local health department or designated health care provider. The notification shall be transmitted directly to the requesting officer or employee or arresting individual or, upon request of the requesting officer or employee or arresting individual, to his or her primary care physician or to another health professional designated by the officer or employee or arresting individual. The notification required under this subsection shall include an explanation of the confidentiality requirements of subsection (7). The notification required under this subsection shall also contain a statement recommending that the requesting officer, employee, or arresting individual undergo an HIV test, an HBV test, or an HCV test, or all 3</p>

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	<p>tests.</p> <p>(7) The notice required under subsection (6) shall not contain information that would identify the arrestee, correctional facility inmate, parolee, or probationer who tested positive or negative for HIV, HBV, or HCV. The information contained in the notice is confidential and is subject to this section, the rules promulgated under section 5111, and section 5131. A person who receives confidential information under this section shall disclose the information to others only to the extent consistent with the authorized purpose for which the information was obtained.</p> <p>(8) The department may promulgate rules to administer this section. The department shall develop and distribute the forms required under this section.</p> <p>(9) In addition to the penalties prescribed in the rules promulgated under section 5111 and in section 5131, a person who discloses information in violation of subsection (7) is guilty of a misdemeanor.</p> <p>(10) A local health department or designated health care provider shall report to the department each test result obtained under this section that indicates that an individual is HIV infected, in compliance with section 5114.</p> <p>(11) A person or governmental entity that makes a good faith effort to comply with subsections (1) to (6) is immune from civil liability or criminal penalty based on compliance with, or the failure to comply with, those subsections.</p> <p>(12) As used in this section and section 5205:</p> <p>(a) "Correctional facility" means a municipal or county jail, work camp, lockup, holding center, halfway house, community corrections center, or any other facility maintained by a municipality or county that houses adult prisoners. Correctional facility does not include a facility owned or operated by the department of corrections.</p> <p>(b) "Employee" means a county employee or a court employee.</p> <p>(c) "HBV" means hepatitis B virus.</p> <p>(d) "HBV infected" or "HBV infection" means the status of an individual who is tested as HBsAg-positive.</p> <p>(e) "HCV" means hepatitis C virus.</p> <p>(f) "HCV infected" or "HCV infection" means the status of an individual who has tested positive for the presence of HCV antibodies or has tested positive for HBV using an RNA test.</p> <p>(g) "HIV" means human immunodeficiency virus.</p> <p>(h) "HIV infected" means that term as defined in section 5101.</p> <p>(i) "Individual making a lawful arrest" or "arresting individual" means 1 of the following:</p> <p>(i) A private security police officer authorized to make an arrest without a warrant under section 30 of the private security business and</p>

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	<p>security and alarm act, PA 330, MCL 338.1080, and section 15 of the code of criminal procedure, 1927 PA 175, MCL 764.15.</p> <p>(ii) A merchant, agent of a merchant, employee of a merchant, or independent contractor providing security for a merchant authorized to make an arrest in the merchant's store and in the course of his or her employment as prescribed by section 16(d) of the code of criminal procedure, 1927 PA 175, MCL 764.16. Individual making a lawful arrest or arresting individual does not include a private person authorized to make an arrest under section 16(a) and (b) of the code of criminal procedure, 1927 PA 175, MCL 764.16.</p> <p>(j) "Local correctional officer" means an individual employed by a local governmental unit in a correctional facility as a corrections officer.</p> <p>(k) "Officer" means a law enforcement officer, motor carrier officer, or property security officer employed by the state, a law enforcement officer employed by a local governmental unit, a fire fighter employed by or volunteering for a local governmental unit, or a local correctional officer.</p>
§ 333.5205	<p>Failure or refusal to comply with warning notice; petition; hearing; notice; waiver; orders; recommendation and duties of commitment review panel and circuit court; appeal to circuit court; termination or continuation of commitment; cost of implementing order; right to counsel; appeal to court of appeals; leaving facility or refusal to undergo testing for certain infections as contempt.</p> <p>Sec. 5205. (1) If a department representative or a local health officer knows or has reasonable grounds to believe that an individual has failed or refused to comply with a warning notice issued under section 5203, the department or local health department may petition the circuit court for the county of Ingham or for the county served by the local health department for an order as described in subsection (6).</p> <p>(2) A petition filed under subsection (1) shall state all of the following:</p> <p>(a) The grounds and underlying facts that demonstrate that the individual is a health threat to others and, unless an emergency order is sought under section 5207, has failed or refused to comply with a warning notice issued under section 5203.</p> <p>(b) The petitioner's effort to alleviate the health threat to others before the issuance of the warning notice, unless an emergency order is sought under section 5207.</p> <p>(c) The type of relief sought.</p> <p>(d) A request for a court hearing on the allegations set forth in the petition.</p> <p>(3) If a test subject refuses to undergo a test requested by an officer or employee or an arresting individual under section 5204, the officer's or employee's or arresting individual's employer may petition the circuit court for the county in which the employer is located or the appropriate district court for an order as described in subsection (7).</p>

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	<p>(4) A petition filed under subsection (3) shall state all of the following:</p> <p>(a) Substantially the same information contained in the request made to an officer's or employee's or arresting individual's employer under section 5204(2) and (3), except that the petition shall contain the name of the arrestee, correctional facility inmate, parolee, or probationer who is the proposed test subject.</p> <p>(b) The reasons for the officer's or employee's or arresting individual's determination that the exposure described in the request made under section 5204(2) and (3) could have transmitted HIV, HBV, or HCV, or all or a combination of those viruses, along with the date and place the officer or employee or arresting individual received the training in the transmission of bloodborne diseases required under section 5204(1).</p> <p>(c) The fact that the arrestee, correctional facility inmate, parolee, or probationer has refused to undergo the test or tests requested under section 5204(2) and (3).</p> <p>(d) The type of relief sought.</p> <p>(e) A request for a court hearing on the allegations set forth in the petition.</p> <p>(5) Upon receipt of a petition filed under subsection (1), the circuit court shall fix a date for hearing that shall be as soon as possible, but not later than 14 days after the date the petition is filed. Notice of the petition and the time and place of the hearing shall be served personally on the individual and on the petitioner not less than 3 days before the date of the hearing. Notice of the hearing shall include notice of the individual's right to appear at the hearing, the right to present and cross-examine witnesses, and the right to counsel as provided in subsection (12). The individual and the petitioner may waive notice of hearing, and upon filing of the waiver in writing, the circuit court may hear the petition immediately. Upon receipt of a petition filed under subsection (3), the circuit court or the district court shall fix a date for hearing that shall be as soon as possible, but not later than 24 hours after the time and date the petition is filed. Notice of the petition and the time and place of the hearing shall be served personally on both the proposed test subject under section 5204 and the petitioner within a time period that is reasonable under the circumstances. Notice of the hearing shall include notice of the proposed test subject's right to appear at the hearing, the right to present and cross-examine witnesses, and the right to counsel as provided in subsection (12). The proposed test subject and the petitioner may waive notice of the hearing, and upon filing of the waiver in writing, the circuit court or the district court may hear the petition filed under subsection (3) immediately.</p> <p>(6) Upon a finding by the circuit court that the department or local health department has proven the allegations set forth in a petition filed under subsection (1) by clear and convincing evidence, the circuit court may issue 1 or more of the following orders:</p> <p>(a) An order that the individual participate in a designated education program.</p> <p>(b) An order that the individual participate in a designated counseling</p>

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	<p>program.</p> <p>(c) An order that the individual participate in a designated treatment program.</p> <p>(d) An order that the individual undergo medically accepted tests to verify the individual's status as a carrier or for diagnosis.</p> <p>(e) An order that the individual notify or appear before designated health officials for verification of status, testing, or other purposes consistent with monitoring.</p> <p>(f) An order that the individual cease and desist conduct that constitutes a health threat to others.</p> <p>(g) An order that the individual live part-time or full-time in a supervised setting for the period and under the conditions set by the circuit court.</p> <p>(h) Subject to subsection (8), an order that the individual be committed to an appropriate facility for the period and under the conditions set by the circuit court. A commitment ordered under this subdivision shall not be for more than 6 months, unless the director of the facility, upon motion, shows good cause for continued commitment.</p> <p>(i) Any other order considered just by the circuit court.</p> <p>(7) Upon a finding by the circuit court or the district court that the officer's or employee's or arresting individual's employer has proven the allegations set forth in a petition filed under subsection (3), including, but not limited to, the requesting officer's or employee's or arresting individual's description of his or her exposure to the blood or body fluids of the proposed test subject, the circuit court or the district court may issue an order requiring the proposed test subject to undergo a test for HIV infection, HBV infection, or HCV infection, or all or a combination of the 3 infections.</p> <p>(8) The circuit court shall not issue an order authorized under subsection (6)(h) unless the court first considers the recommendation of a commitment review panel appointed by the court under this subsection to review the need for commitment of the individual to a health facility. The commitment review panel shall consist of 3 physicians appointed by the court from a list of physicians submitted by the department. Not less than 2 of the physicians shall have training and experience in the diagnosis and treatment of serious communicable diseases and infections. However, upon the motion of the individual who is the subject of the order, the court shall appoint as 1 member of the commitment review panel a physician who is selected by the individual. The commitment review panel shall do all of the following:</p> <p>(a) Review the record of the proceeding.</p> <p>(b) Interview the individual, or document the reasons why the individual was not interviewed.</p> <p>(c) Recommend either commitment or an alternative or alternatives to commitment, and document the reasons for the recommendation.</p> <p>(9) An individual committed to a facility under subsection (6)(h) may appeal to the circuit court for a commitment review panel</p>

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	<p>recommendation as to whether or not the patient's commitment should be terminated. Upon the filing of a claim of appeal under this subsection, the court shall reconvene the commitment review panel appointed under subsection (5) as soon as practicable, but not more than 14 days after the filing of the claim of appeal. Upon reconvening, the commitment review panel shall do all of the following:</p> <ul style="list-style-type: none"> (a) Review the appeal and any other information considered relevant by the commitment review panel. (b) Interview the individual, or document the reasons why the individual was not interviewed. (c) Recommend to the court either termination or continuation of the commitment, and document the reasons for the recommendation. <p>(10) Upon receipt of the recommendation of the commitment review panel under subsection (9), the circuit court may terminate or continue the commitment.</p> <p>(11) The cost of implementing an order issued under subsection (6) shall be borne by the individual who is the subject of the order, unless the individual is unable to pay all or a part of the cost, as determined by the circuit court. If the court determines that the individual is unable to pay all or a part of the cost of implementing the order, then the state shall pay all of the cost or that part of the cost that the individual is unable to pay, upon the certification of the department. The cost of implementing an order issued under subsection (7) shall be borne by the arrestee, correctional facility inmate, parolee, or probationer who is tested under the order.</p> <p>(12) An individual who is the subject of a petition filed under this section or an affidavit filed under section 5207 has the right to counsel at all stages of the proceedings. If the individual is unable to pay the cost of counsel, the circuit court shall appoint counsel for the individual.</p> <p>(13) An order issued by the circuit court under subsection (6) may be appealed to the court of appeals. The court of appeals shall hear the appeal within 30 days after the date the claim of appeal is filed with the court of appeals. However, an order issued by the circuit court under subsection (6) shall not be stayed pending appeal, unless ordered by the court of appeals on motion for good cause. An order issued by the circuit court under subsection (7) may be appealed to the court of appeals. The court of appeals shall hear the appeal within 15 days after the date the claim of appeal is filed with the court of appeals. However, an order issued by the circuit court under subsection (7) shall not be stayed pending appeal, unless ordered by the court of appeals on motion for good cause. An order issued by a district court under subsection (7) may be appealed to the circuit court for the county in which the district court is located. The circuit court shall hear the appeal within 15 days after the date the claim of appeal is filed with the circuit court. However, an order issued by a district court under subsection (7) shall not be stayed pending appeal, unless ordered by the circuit court on motion for good</p>

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	<p>cause.</p> <p>(14) An individual committed to a facility under this section who leaves the facility before the date designated in the commitment order without the permission of the circuit court or who refuses to undergo a test for HIV infection, HBV infection, HCV infection, or all or a combination of the 3 infections is guilty of contempt.</p>
§ 333.5923	<p>HIV testing; counseling; costs.</p> <p>Sec. 5923. (1) The department shall utilize the fund to provide HIV testing free of charge to all residents of this state and all nonresident students enrolled in and attending a public or private college, university, or other postsecondary educational institution in this state. All HIV testing under this section shall be performed by the department or a licensed clinical laboratory designated by the department.</p> <p>(2) As a condition of receiving an HIV test under this section, the department shall require an individual who requests an HIV test to undergo counseling both before and after the HIV test. The counseling may be provided by local health department personnel or an individual designated by the local health department who has undergone training approved by the department. The counseling shall be conducted pursuant to protocols approved by the department. If the counseling required under this subsection is provided by a local health department or an individual designated by the local health department, the cost of the counseling shall be paid by the local health department out of the distribution of funds made under section 5(c) of the health and safety fund act. If a distribution of funds is not made under section 5(c) of the health and safety fund act, the cost of counseling provided under this subsection by a local health department or an individual designated by the local health department shall be paid by the department.</p> <p>(3) A person who provides HIV testing or counseling under this section shall be reimbursed for the cost of the HIV testing or counseling only by the department or a local health department, and shall not bill the individual receiving the services or any other person including, but not limited to, a third party payer.</p>
§ 333.9123	<p>Testing of donor, sample, specimen, or organ for presence of HIV or antibody to HIV; applicability of subsection (1); effect of positive test results; inability to perform test; written consent to use blood, tissue, organ, or other human specimen; donation of blood exclusively for own use; use of self-replicating body fluids; informing donor of positive test result; violation; liability; definitions.</p> <p>Sec. 9123. (1) Except as otherwise provided in subsection (2), a person, including, but not limited to, a licensee under article 15 or article 17 who procures or collects blood or human tissues, organs, or other specimens</p>

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	<p>for purposes of transplantation, transfusion, introduction, or injection into a human body shall test or provide for the testing of each potential donor or each sample or specimen of blood or tissue, or each organ or other human specimen for the presence in the donor, sample, specimen, or organ of HIV or an antibody to HIV.</p> <p>(2) Subsection (1) does not apply if a test for HIV or an antibody to HIV cannot be performed in the time during which the blood, tissue, organ, or other human specimen is viable for purposes of transplantation, transfusion, introduction, or injection into a human body, due to emergency or other exigent circumstances.</p> <p>(3) Except as otherwise provided in subsection (4), if the results of a test performed under subsection (1) are positive, the blood, tissue, organ, or other human specimen shall not be used for purposes of transplantation, transfusion, introduction, or injection into a human body. If a test for HIV or an antibody to HIV cannot be performed in the time during which the blood, tissue, organ, or other human specimen is viable for purposes of transplantation, transfusion, introduction, or injection into a human body, due to an emergency or other exigent circumstances, then the blood, tissue, organ, or other human specimen may be used for purposes of transplantation, transfusion, introduction, or injection into a human body if the person responsible for the transplantation, transfusion, introduction, or injection and the person who intends to receive the blood, tissue, organ or other human specimen have been informed that there was insufficient time to perform a test for HIV or an antibody to HIV, and have agreed in writing to the use of the blood, tissue, organ, or other human specimen. If the person who intends to receive the blood, tissue, organ, or other human specimen is a minor, then the parent, legal guardian, or person in loco parentis of the minor shall have been informed that there was insufficient time to perform a test for HIV or an antibody to HIV and shall have agreed in writing to the use of the blood, tissue, organ, or other human specimen. If the person who intends to receive the blood, tissue, organ, or other human specimen is otherwise unable to give informed consent, then any of the following persons, in order of priority stated, when persons in prior classes are not available at the time the transplantation, transfusion, introduction, or injection is to be performed, shall have been informed that there was insufficient time to perform a test for HIV or an antibody to HIV and shall have agreed in writing to the use of the blood, tissue, organ, or other human specimen:</p> <ul style="list-style-type: none"> (i) The spouse. (ii) An adult son or daughter. (iii) Either parent. (iv) An adult brother or sister. (v) A guardian of the person at the time the transplantation, transfusion, introduction, or injection is to be performed. <p>(4) If a person donates blood exclusively for his or her own transfusion needs, and if the results of a test performed under subsection (1) are positive, the person may use the blood for that purpose if both the</p>

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	<p>person responsible for the transfusion and the person who intends to receive the blood have been informed of the positive test result and have consented in writing to the use of the blood.</p> <p>(5) A person, including, but not limited to, a licensee under article 15 or article 17, who procures or collects self-replicating body fluids for purposes of introduction into a human body shall test each potential donor, and, if the donor donates on a regular basis, not less than every 3 months, for the presence in the donor of HIV or an antibody to HIV. If at any time the test results are positive, the self-replicating body fluids of the donor shall not be used for introduction into a human body.</p> <p>(6) A person, including, but not limited to, a licensee under article 15 or article 17 who orders or performs, or both, a test for HIV or an antibody to HIV under this section shall, if the test result is positive, inform the donor of the positive test result. For purposes of this subsection, a positive test result is a double positive enzyme-linked immunosorbent assay test, combined with a positive western blot assay test, or a positive result under an HIV test that is considered reliable by the federal centers for disease control and is approved by the department.</p> <p>(7) A person who violates this section shall be liable in a civil action for damages for the loss or damage resulting from the violation.</p> <p>(8) As used in this section:</p> <p>(a) "Blood" includes whole blood, blood plasma, blood products, and blood derivatives.</p> <p>(b) "HIV" means human immunodeficiency virus.</p> <p>(c) "Self-replicating body fluids" means bodily fluids that are reproduced by the body including, but not limited to, breast milk. Self-replicating body fluids does not include blood or sperm.</p>
§ 333.16267	<p>HIV infected test subject, licensee requirement to report.</p> <p>Sec. 16267. (1) A licensee who obtains from a test subject a test result that indicates that the test subject is HIV infected shall comply with the reporting requirements of section 5114.</p> <p>(2) As used in this section:</p> <p>(a) "HIV" means human immunodeficiency virus.</p> <p>(b) "HIV infected" means that term as defined in section 5101.</p>
§ 333.16273	<p>Artificial insemination services on anonymous basis; use of frozen sperm; testing sperm donor for presence of HIV or antibody to HIV; violation; liability; definitions.</p> <p>(1) A licensee, except a veterinarian licensed under this article, who provides artificial insemination services on an anonymous basis shall use only frozen sperm, and shall test each potential sperm donor for the presence in the donor of HIV or an antibody to HIV. The donated sperm shall be frozen, stored, and quarantined for not less than 6 months.</p>

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	<p>Before frozen sperm is used for artificial insemination, and not less than 6 months after the date of the donation, the licensee shall take a second blood sample from the donor and have that blood sample tested for HIV or an antibody to HIV. If at any time the test results are positive, the licensee shall not use the sperm of the donor for artificial insemination purposes.</p> <p>(2) A licensee who violates this section shall be liable in a civil action for damages for the loss or damage resulting from the violation.</p> <p>(3) As used in this section:</p> <p>(a) "Anonymous basis" means that the recipient of the sperm does not know the identity of the donor, but the licensee who provides the artificial insemination services or collects the sperm from the donor does know the identity of the donor.</p> <p>(b) "HIV" means human immunodeficiency virus.</p>
333.20169	<p>HIV infected test subject; compliance with reporting requirements; definitions.</p> <p>(1) A health facility or agency licensed under this article that obtains from a test subject a test result that indicates that the test subject is HIV infected shall comply with the reporting requirements of section 5114.</p> <p>(2) As used in this section:</p> <p>(a) "HIV" means human immunodeficiency virus.</p> <p>(b) "HIV infected" means that term as defined in section 5101.</p>
§ 333.20179	<p>Artificial insemination services.</p> <p>Sec. 20179. (1) A health facility or agency licensed under this article that provides artificial insemination services on an anonymous basis shall use only frozen sperm, and shall test each potential sperm donor for the presence in the donor of HIV or an antibody to HIV. The donated sperm shall be frozen, stored, and quarantined for not less than 6 months. Before frozen sperm is used for artificial insemination, and not less than 6 months after the date of the donation, the health facility or agency shall take a second blood sample from the donor and have that blood sample tested for HIV or an antibody to HIV. If at any time the test results are positive, the health facility or agency licensed under this article shall not use the sperm of the donor for artificial insemination purposes.</p> <p>(2) A health facility or agency licensed under this article that violates this section shall be liable in a civil action for damages for the loss or damage resulting from the violation.</p> <p>(3) As used in this section:</p>

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	<p>(a) "Anonymous basis" means that the recipient of the sperm does not know the identity of the donor, but the health facility or agency licensed under this article that provides the artificial insemination services or collects the sperm from the donor does know the identity of the donor.</p> <p>(b) "HIV" means human immunodeficiency virus.</p>
§ 333.20191	<p>Emergency patient; test for presence of infectious agent; positive test results; duties of health facility; notice; request for testing; confidentiality; rules; disclosure as misdemeanor; liability; definitions.</p> <p>Sec. 20191.</p> <p>(1) If a police officer, fire fighter, individual licensed under section 20950 or 20952, or another individual assists an emergency patient who is subsequently transported to a health facility or transports an emergency patient to a health facility, and if the emergency patient, as part of the treatment rendered by the health facility or pursuant to a request made under subsection (2), is tested for the presence in the emergency patient of an infectious agent and the test results are positive, or is tested pursuant to a request made under subsection (2) for the presence in the emergency patient of the infectious agent of HIV or HBV and the test results are positive or negative, the health facility shall do all of the following:</p> <p>(a) Subject to subsection (4) and subdivision (b), if the test results are positive for an infectious agent and the individual meets 1 of the following requirements, notify the individual on a form provided by the department that he or she may have been exposed to an infectious agent and, if the test results of a test conducted pursuant to subsection (2) are negative for the infectious agent of HIV or HBV, notify the individual of that fact:</p> <p>(i) The individual is a police officer, fire fighter, or individual licensed under section 20950 or 20952.</p> <p>(ii) The individual demonstrates in writing to the health facility that he or she was exposed to the blood, body fluids, or airborne agents of the emergency patient or participated in providing assistance to the emergency patient or transportation of the emergency patient to the health facility. An individual who makes a request under subsection (2) is exempt from the requirements of this subparagraph.</p> <p>(b) Subject to subsection (4), if the test results indicate that the emergency patient is HIV infected, the health facility shall not reveal that the infectious agent is HIV unless the health facility has received a written request for notification from an individual described in subdivision (a)(i) or (ii). This subdivision does not apply if the test results indicate that the emergency patient is not HIV infected.</p>

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	<p>(c) Subject to subsection (4), on a form provided by the department, notify the individual described in subdivision (a), at a minimum, of the appropriate infection control precautions to be taken and the approximate date of the potential exposure. If the emergency patient is tested pursuant to a request made under subsection (2) for the presence in the emergency patient of the infectious agent of HIV or HBV, or both, and if the test results are positive or negative, the health facility also shall notify the individual described in subdivision (a) on the form provided by the department that he or she should be tested for HIV infection or HBV infection, or both, and counseled regarding both infectious agents.</p> <p>(2) A police officer, fire fighter, individual licensed under section 20950 or 20952, or other individual who assists an emergency patient who is subsequently transported to a health facility or who transports an emergency patient to a health facility and who sustains a percutaneous, mucous membrane, or open wound exposure to the blood or body fluids of the emergency patient may request that the emergency patient be tested for HIV infection or HBV infection, or both, pursuant to this subsection. The police officer, fire fighter, individual licensed under section 20950 or 20952, or other individual shall make a request to a health facility under this subsection in writing on a form provided by the department and before the emergency patient is discharged from the health facility. The request form shall be dated and shall contain at a minimum the name and address of the individual making the request and a description of the individual's exposure to the emergency patient's blood or other body fluids. The request form shall contain a space for the information required under subsection (3) and a statement that the requester is subject to the confidentiality requirements of subsection (5) and section 5131. The request form shall not contain information that would identify the emergency patient by name. A health facility that receives a request under this subsection shall accept as fact the requester's description of his or her exposure to the emergency patient's blood or other body fluids, unless the health facility has reasonable cause to believe otherwise. The health facility shall make a determination as to whether or not the exposure described in the request was a percutaneous, mucous membrane, or open wound exposure pursuant to R 325.70001 to R 325.70018 of the Michigan administrative code. If the health facility determines that the exposure described in the request was a percutaneous, mucous membrane, or open wound exposure, the health facility shall test the emergency patient for HIV infection or HBV infection, or both, as indicated in the request. A health facility that performs a test under this subsection may charge the individual requesting the test for the reasonable and customary charges of the test. The individual requesting the test is responsible for the payment of the charges if the charges are not payable by the individual's employer, pursuant to an agreement between the individual and the employer, or by the individual's health care payment or benefits plan. A health facility is not required to provide HIV counseling pursuant to section 5133(1) to an individual who requests that an emergency patient be tested for HIV</p>

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	<p>under this subsection, unless the health facility tests the requesting individual for HIV.</p> <p>(3) A health facility shall comply with this subsection if the health facility receives a request under subsection (2) and determines either that there is reasonable cause to disbelieve the requester's description of his or her exposure or that the exposure was not a percutaneous, mucous membrane, or open wound exposure and as a result of the determination the health facility is not required to test the emergency patient for HIV infection or HBV infection, or both. A health facility shall also comply with this subsection if the health facility receives a request under subsection (2) and determines that the exposure was a percutaneous, mucous membrane, or open wound exposure, but is unable to test the emergency patient for HIV infection or HBV infection, or both. The health facility shall state in writing on the request form the reasons for disbelieving the requester's description of his or her exposure, the health facility's exposure determination, or the inability to test the emergency patient, as applicable. The health facility shall transmit a copy of the completed request form to the requesting individual within 2 days after the date the determination is made that the health facility has reasonable cause to disbelieve the requester's description of his or her exposure or that the exposure was not a percutaneous, mucous membrane, or open wound exposure or within 2 days after the date the health facility determines that it is unable to test the emergency patient for HIV infection or HBV infection, or both.</p> <p>(4) The notification required under subsection (1) shall occur within 2 days after the test results are obtained by the health facility or after receipt of a written request under subsection (1)(b). The notification shall be transmitted to the potentially exposed individual or, upon request of the individual, to the individual's primary care physician or other health professional designated by the individual, as follows:</p> <p>(a) If the potentially exposed individual provides his or her name and address or the name and address of the individual's primary care physician or other health professional designated by the individual to the health facility or if the health facility has a procedure that allows the health facility in the ordinary course of its business to determine the individual's name and address or the name and address of the individual's primary care physician or other health professional designated by the individual, the health facility shall notify the individual or the individual's primary care physician or other health professional designated by the individual directly at that address.</p> <p>(b) If the potentially exposed individual is a police officer, fire fighter, or individual licensed under section 20950 or 20952, and if the health facility does not have the name of the potentially exposed individual or the individual's primary care physician or other health professional designated by the individual, the health facility shall notify the appropriate police department, fire department, or life support agency</p>

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	<p>that employs or dispatches the individual. If the health facility is unable to determine the employer of an individual described in this subdivision, the health facility shall notify the medical control authority or chief elected official of the governmental unit that has jurisdiction over the transporting vehicle.</p> <p>(c) A medical control authority or chief elected official described in subdivision (b) shall notify the potentially exposed individual or the individual's primary care physician or other health professional designated by the individual or, if unable to notify the potentially exposed individual or the individual's primary care physician or other health professional designated by the individual, shall document in writing the notification efforts and reasons for being unable to make the notification.</p> <p>(5) The notice required under subsection (1) shall not contain information that would identify the emergency patient who tested positive for an infectious agent or who tested positive or negative for the presence in the emergency patient of the infectious agent of HIV or HBV. The information contained in the notice is confidential and is subject to this section, the rules promulgated under section 5111, and section 5131. A person who receives confidential information under this section shall disclose the information to others only to the extent consistent with the authorized purpose for which the information was obtained.</p> <p>(6) The department shall promulgate rules to administer this section. The department shall develop and distribute the forms required under subsections (1)(a) and (c) and (2).</p> <p>(7) Except as otherwise provided in this subsection, a person who discloses information regarding an infectious agent in violation of subsection (5) is guilty of a misdemeanor. This subsection does not apply to the disclosure of information regarding a serious communicable disease or infection, if the disclosure is subject to rules promulgated under section 5111 or to section 5131.</p> <p>(8) A person or governmental entity that makes a good faith effort to comply with subsection (1), (2), (3), or (4) is immune from any civil liability or criminal penalty based on compliance or the failure to comply.</p>

Chapter 791: Department of Corrections

MI Chapter 791 Code §	Code Language
§ 791.267	<p>Temporary confinement; study of prisoner; suitability of prisoner to type of rehabilitation required; report; execution of confinement order; test for HIV or antibody to HIV; applicability of subsection (2); housing prisoner in administrative segregation, inpatient health care unit, or unit separate from general prisoner population; reporting positive test result; exposure of employee to blood or body fluid of prisoner; testing employee; employee equipment; HIV positive prisoner not to work in health facility; seroprevalence study; disclosure of test results; counseling; AIDS education program; report; definitions.</p> <p>Sec. 67. (1) Quarters for temporary confinement apart from those of regular inmates shall be provided for convicted prisoners upon commitment at each of the state correctional facilities, which the director shall designate as a reception center. Within 60 days after the arrival of a convicted prisoner at such a state correctional facility, the classification committee shall make and complete a comprehensive study of the prisoner, including physical and psychiatric examinations, to ensure that the prisoner is confined in the state correctional facility suited to the type of rehabilitation required in his or her case. The warden of the state correctional facility shall deliver a report of the study of the classification committee to the deputy director of the correctional facilities administration, who shall, within 5 days after receipt of the report, execute an order to confine the prisoner in the state correctional facility determined as suitable by the deputy director.</p> <p>(2) Immediately upon arrival at a reception center designated pursuant to subsection (1), each incoming prisoner shall undergo a test for HIV or an antibody to HIV. This subsection does not apply if an incoming prisoner has been tested for HIV or an antibody to HIV under section 5129 of the public health code, Act No. 368 of the Public Acts of 1978, being section 333.5129 of the Michigan Compiled Laws, within the 3 months immediately preceding the date of the prisoner's arrival at the reception center, as indicated by the record transferred to the department by the court under that section.</p> <p>(3) If a prisoner receives a positive test result and is subsequently subject to discipline by the department for sexual misconduct that could transmit HIV, illegal intravenous use of controlled substances, or assaultive or predatory behavior that could transmit HIV, the department shall house that prisoner in administrative segregation, an inpatient health care unit, or a unit separate from the general prisoner population, as determined by the department.</p> <p>(4) The department shall report each positive test result to the department of community health, in compliance with section 5114 of Act No. 368 of the Public Acts of 1978, being section 333.5114 of the Michigan Compiled Laws.</p>

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	<p>(5) If an employee of the department sustains a percutaneous, mucous membrane, or open wound exposure to the blood or body fluid of a prisoner, the employee may, and the department shall, proceed under section 67b.</p> <p>(6) Upon the request of an employee of the department, the department shall provide or arrange for a test for HIV or an antibody to HIV for that employee, free of charge.</p> <p>(7) Upon the request of an employee of the department, the department shall provide to that employee the equipment necessary to implement universal precautions to prevent transmission of HIV infection.</p> <p>(8) A prisoner who receives a positive HIV test result under subsection (5) shall not work in a health facility operated by the department.</p> <p>(9) The department shall conduct a seroprevalence study of the prisoners in all state correctional facilities to determine the percentage of prisoners who are HIV infected.</p> <p>(10) The results of a test for HIV or an antibody to HIV conducted under this section shall be disclosed by the department pursuant to section 67b.</p> <p>(11) The deputy director of the correctional facilities administration shall take steps to ensure that all prisoners who receive HIV testing receive counseling regarding AIDS including, at a minimum, treatment, transmission, and protective measures.</p> <p>(12) The department, in conjunction with the department of community health, shall develop and implement a comprehensive AIDS education program designed specifically for correctional environments. The program shall be conducted by the bureau within the department responsible for health care, for staff and for prisoners at each state correctional facility.</p> <p>(13) By March 30, 1991, the department shall submit a report regarding the testing component, managerial aspects, and effectiveness of subsections (2) to (12) to the senate and house committees with jurisdiction over matters pertaining to corrections, and to the senate and house committees with jurisdiction over matters pertaining to public health.</p> <p>(14) As used in this section:</p> <ul style="list-style-type: none"> (a) "AIDS" means acquired immunodeficiency syndrome. (b) "HIV" means human immunodeficiency virus. (c) "Positive test result" means a double positive enzyme-linked immunosorbent assay test, combined with a positive western blot assay test, or a positive test under an HIV test that is considered reliable by the federal centers for disease control and is approved by the department of community health.

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§ 791.237A	<p>Sec. 37a. (1) Before a prisoner is released on parole or discharged without being paroled, the Department shall require the prisoner to undergo a test for HIV or an antibody to HIV. The test shall occur not earlier than 60 days before the prisoner is paroled or discharged.</p> <p>(2) If a prisoner receives a positive test result for HIV or an antibody to HIV, both of the following apply:</p> <p>(a) The Department shall report the positive test result to the Department of Community Health, in compliance with section 5114 of the Public Health Code, 1978 PA 368, MCL 333.5114.</p> <p>(b) The Department shall provide the prisoner with counseling regarding treatment options for HIV.</p> <p>(3) As used in this section, "HIV" and "positive test result" mean those terms as defined in section 67.</p>
§ 791.267b	<p>Exposure of employee to blood or body fluid of prisoner; request to test prisoner for HIV or HBV infection; form and contents of request; determination; prisoner consent not required; counseling; determination not requiring HIV or HBV infection testing; notice of HIV or HBV test results; confidentiality; forms; violation of subsection (8) as misdemeanor; report; definitions.</p> <p>Sec. 67b. (1) If an employee of the department sustains a percutaneous, mucous membrane, or open wound exposure to the blood or body fluids of a prisoner, the employee may request that the prisoner be tested for HIV infection or HBV infection, or both, pursuant to this section.</p> <p>(2) An employee shall make a request described in subsection (1) to the department in writing on a form provided by the department within 72 hours after the exposure occurs. The request form shall be dated and shall contain at a minimum the name and address of the employee making the request and a description of his or her exposure to the blood or other body fluids of the prisoner. The request form shall contain a space for the information required under subsection (6) and a statement that the requester is subject to the confidentiality requirements of subsection (8) and section 5131 of the public health code, 1978 PA 368, MCL 333.5131. The request form shall not contain information that would identify the prisoner.</p> <p>(3) Upon receipt of a request under this section, The department shall make a determination as to whether or not there is reasonable cause to believe that the exposure described in the request occurred and if it was a percutaneous, mucous membrane, or open wound exposure pursuant to R 325.70001 to R 325.70018 of the Michigan administrative code. If the department determines that there is reasonable cause to believe that the exposure described in the request occurred and was a percutaneous, mucous membrane, or open wound exposure, the department shall test the prisoner for HIV infection or HBV infection, or both, as indicated in the request, subject to subsection (4).</p>

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	<p>(4) In order to protect the health, safety, and welfare of department employees, the department may test a prisoner under subsection (3) whether or not the prisoner consents to the test. The department is not required to give the prisoner an opportunity for a hearing or to obtain an order from a court of competent jurisdiction before administering the test.</p> <p>(5) The department is not required to provide HIV counseling pursuant to section 5133(1) of the public health code, 1978 PA 368, MCL 333.5133, to an employee who requests that a prisoner be tested for HIV under this section, unless the department tests the employee for HIV.</p> <p>(6) The department shall comply with this subsection if the department receives a request under this section and determines either that there is not reasonable cause to believe the requester's description of his or her exposure or that the exposure was not a percutaneous, mucous membrane, or open wound exposure and as a result of the determination the department is not required to test the prisoner for HIV infection or HBV infection, or both. The department shall state in writing on the request form the reason it determined there was not reasonable cause to believe the requester's description of his or her exposure or for the department's determination that the exposure was not a percutaneous, mucous membrane, or open wound exposure, as applicable. The department shall transmit a copy of the completed request form to the requesting individual within 2 days after the date the department makes the determination described in this subsection.</p> <p>(7) The department shall notify the requesting employee of the HIV or HBV test results, or both, whether positive or negative, within 2 days after the test results are obtained by the department. The notification shall be transmitted directly to the requesting employee or, upon request of the requesting employee, to his or her primary care physician or other health professional designated by the employee. The notice required under this subsection shall include an explanation of the confidentiality requirements of subsection (8).</p> <p>(8) The notice required under subsection (7) shall not contain information that would identify the prisoner who tested positive or negative for HIV or HBV. The information contained in the notice is confidential and is subject to this section, the rules promulgated under section 5111 of the public health code, 1978 PA 368, MCL 333.5111, and section 5131 of the public health code, 1978 PA 368, MCL 333.5131. A person who receives confidential information under this section shall disclose the information to others only to the extent consistent with the authorized purpose for which the information was obtained.</p> <p>(9) The department shall develop and distribute the forms required under this section.</p> <p>(10) In addition to the penalties prescribed in the rules promulgated under section 5111 of the public health code, 1978 PA 368, MCL 333.5111</p>

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	<p>and in section 5131 of the public health code, 1978 PA 368, MCL 333.5131, a person who discloses information in violation of subsection (8) is guilty of a misdemeanor.</p> <p>(11) The department shall report to the department of community health each test result obtained under this section that indicates that an individual is HIV infected, in compliance with section 5114 of the public health code, 1978 PA 368, MCL 333.51114.</p> <p>(12) As used in this section:</p> <ul style="list-style-type: none">(a) "Employee" means an individual who is employed by or under contract to the department of corrections.(b) "HBV" means hepatitis B virus.(c) "HBV infected" or "HBV infection" means the status of an individual who is tested as HBsAg-positive.(d) "HIV" means human immunodeficiency virus.(e) "HIV infected" means that term as defined in section 5101 of the public health code, 1978 PA 368, MCL 333.511101.

Michigan Administrative Code – Department of Consumer and Industry Services
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MAC	Code Language
R 325.70001	<p>OCCUPATIONAL HEALTH STANDARDS--BLOODBORNE INFECTIOUS DISEASES - Scope.</p> <p>Rule 1. These rules apply to all employers that have employees with occupational exposure to blood and other potentially infectious material.</p>
R 325.70013	<p>Vaccinations and postexposure follow-up.</p> <p>(3) An employer shall assure that all employees will receive appropriate counseling with regard to medical risks and benefits before undergoing any evaluations, procedures, vaccinations, or postexposure prophylaxes.</p> <p>(5) An employer shall provide each exposed employee with an opportunity to have a confidential medical evaluation and follow-up subsequent to a reported occupational exposure incident to blood or other potentially infectious material. The evaluation and follow-up shall include, at a minimum, all of the following elements:</p> <p>(a) Documentation of the route or routes of exposure and the circumstances under which the exposure incident occurred.</p> <p>(b) Identification and documentation of the source individual, unless the employer can establish that identification is infeasible or prohibited by state or local law, shall include all of the following:</p> <p style="padding-left: 20px;">(i) The source individual's blood shall be tested as soon as feasible and after consent is obtained to determine HBV and HIV infectivity. If consent is not obtained, the employer shall establish that legally required consent cannot be obtained. If the source individual's consent is not required by law, his or her blood, if available, shall be tested and the results documented.</p> <p style="padding-left: 20px;">(ii) If the source individual is already known to be infected with HBV or HIV, testing need not be repeated.</p> <p style="padding-left: 20px;">(iii) Results of the source individual's testing shall be made available to the exposed employee, and the employee shall be informed of applicable laws and regulations concerning disclosure of the identity and infectious status of the source individual.</p> <p>(c) Collection and testing of blood for HBV and HIV serological status shall include both of the following:</p> <p style="padding-left: 20px;">(i) The exposed employee's blood shall be collected as soon as feasible and tested after consent is obtained.</p> <p style="padding-left: 20px;">(ii) If the exposed employee consents to baseline blood collection, but not to HIV testing at that time, the sample shall be preserved for not less than 90 days. If within the 90 days the employee elects to have the</p>

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	<p>baseline sample tested, such testing shall be done as soon as feasible.</p> <p>(d) Postexposure prophylaxis, when medically indicated, as recommended by the United States public health service.</p> <p>(e) Counseling on risk reduction and the risks and benefits of HIV testing in accordance with state law.</p> <p>(7) For each evaluation pursuant to the provisions of this rule, an employer shall obtain, and provide an employee with a copy of, the evaluating health care professional's written opinion within 15 working days of the completion of the evaluation. The written opinion shall be limited to the following information:</p> <p>(a) The health care professional's recommended limitations upon the employee's use of personal protective clothing or equipment.</p> <p>(b) Whether hepatitis B vaccination is indicated for an employee and if the employee has received such vaccination.</p> <p>(c) A statement that the employee has been informed of the results of the medical evaluation and that the employee has been told about any medical conditions which have resulted from exposure to blood or other potentially infectious material and which require further evaluation or treatment. The written opinion obtained by the employer shall not reveal specific findings or diagnoses that are unrelated to the employee's ability to wear protective clothing and equipment or receive vaccinations. Such findings and diagnoses shall remain confidential.</p> <p>(8) Medical records that are required by these rules shall be maintained in accordance with the provisions of R 325.70015.</p>

Michigan Administrative Code – Department of Labor and Economic Growth

MAC	Code Language
R 339.235	<p>BOXING - Physical examination.</p> <p>(5) Before a contest, a contestant shall provide the ringside physician, licensed physician's assistant, or certified nurse practitioner with the results of HIV and Hepatitis tests performed on the contestant within the previous 12 months. If the results of the tests are positive or not provided, then the contestant shall not compete and the department representative shall be notified.</p>