

# Rhode Island

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September 19, 2011

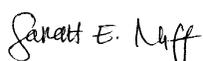
To the Reader:

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](mailto:neffs@nccc.ucsf.edu).

Thank you,



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&



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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.<sup>1</sup>
  - **Pre-test counseling** can include: (1) discussing HIV, risk factors and prevention methods; (2) explaining the meaning of positive and negative test results and their implications; (3) assessing the patient's personal and social supports; (4) determining the patient's readiness to cope with test results; (5) discussing disclosure of test results to others; and (6) advising the patient if reporting positive test results to health authorities is required.
  - **Post-test counseling** can include: (1) informing the patient of the results and meaning of the test results; (2) providing education about avoiding risks of sexual and injection drug exposures; and, for patients who test positive, (3) assessing the impact of test results for the patient and family; (3) explaining treatment options; (4) discussing partner counseling and disclosure of test results to others; and (5) initiating a support and treatment plan.
- **General Consent** – Consent for HIV screening is included in the general medical consent.
- **HIV** – Human Immunodeficiency Virus.
- **Informed Consent** – A process of communication between patient and provider through which an informed patient can choose whether to undergo HIV testing or decline to do so. Elements of informed consent typically include providing oral or written information regarding HIV, the risks and benefits of testing, the implications of HIV test results, how test results will be communicated, and the opportunity to ask questions.<sup>1</sup>
- **Name-based reporting** – Cases are reported by patient name (required in all states except HI and VT).
- **Opt-in** – Patients typically are provided pre-HIV test counseling and must consent specifically to an HIV-antibody test, either orally or in writing.<sup>2</sup>
- **Opt-out** – Performing HIV screening after notifying the patient that: the test will be performed; and the patient may elect to decline or defer testing. Assent is inferred unless the patient declines testing.<sup>1</sup>
- **Routine Testing** – HIV screening that is performed routinely during health-care encounters.
- **Rapid Testing** – Testing with any of the six FDA-approved rapid HIV tests that produce results in 30 minutes or less.<sup>3</sup>
- **Specific Consent** – Consent for the HIV screening is separate from the general medical consent.

### Helpful Resources

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

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

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

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

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

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

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

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

# Rhode Island

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

September 19, 2011

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

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

### Informed Consent

- Informed consent may be through the opt-out process and obtained verbally or in writing (see *State Policies Relating to HIV Testing, 2011*, below, for exceptions); anonymous testing must be verbal.

### Counseling

- Pre-test information and opportunity for client-specific counseling tailored to the patient (to allow greater flexibility) must be offered with HIV testing and informed consent; information may be oral or written.
- HIV counseling means an interactive process of communication between a person and a health care provider or qualified professional HIV test counselor with an assessment of risk and the provision of counseling to assist the person with behavior changes to reduce risks
- For positive results, post-test counseling must be given in person.

### Provisos of Testing

- **Anonymous**
  - Anonymous testing is available at designated anonymous testing (CTRS) sites.
- **Rapid**
  - Rapid testing sites must seek a waiver from the department to provide confirmatory HIV testing from a lab other than the state lab, and shall forward all positive and negative confirmatory HIV test results to the department.
- **Routine**
  - A physician or health care provider attending to any person who may be at risk for HIV infection shall routinely offer the HIV test to those patients.
  - HIV test may be included as part of routine panel of tests for pregnant women.

### Disclosure

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

### Minor/Adolescent Testing

- Minors may consent to testing and services HIV.

## Rhode Island

### *Perinatal Quick Reference Guide:*

#### **A Guide to Rhode Island Perinatal HIV Testing Laws for Clinicians**

September 19, 2011

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

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

### **Prenatal**

- Testing of pregnant women in prenatal care as part of the routine panel of prenatal tests should be conducted as early and often as appropriate and is through the opt-out process.
- Pre-test information & counseling must be offered to pregnant women in prenatal care, see below.
- Physicians or health care providers must offer HIV testing to all patients seeking prenatal care or family planning services.

### **Labor & Delivery**

- Any woman with an undocumented HIV test status in her record at the time of L&D shall be screened with an HIV test unless she opts out.

### **Neonatal**

- Newborns of unknown status shall be tested immediately, consent not required, provided that:
  - (A) Reasonable efforts have been made to secure voluntary consent from the mother to test the newborn; and
  - (B) A mother is informed that HIV antibodies in the newborn indicate that the mother is infected with HIV

### **Other**

- **Counseling**
  - Pre-test information and client-specific counseling tailored to the patient (to allow greater flexibility) must be offered with HIV testing and informed consent; information may be oral or written and must include:
    - (A) An explanation of HIV infection;
    - (B) A description of the interventions that can reduce HIV transmission;
    - (C) The meaning of positive and negative test results;
    - (D) The possibility that a recent infection may not be detected; and
    - (E) An opportunity to ask questions.

# Rhode Island

## State Policies Relating to HIV Testing, 2011

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#### Rhode Island General Laws [RIGL]

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#### Rhode Island Rules and Regulations

<b>R23-6-HIV: Rules and Regulations Pertaining to HIV Counseling, Testing, Reporting, and Confidentiality</b> .....	Pages 32-46
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	Policy Category	Type	Section Code(s)
RESTRICTIONS/MANDATES	Restrictions on use of HIV test	Testing prohibited for employment/hiring purposes	RIGL §23-6.3-11
	Mandatory testing within the criminal justice system	Required testing without consent with provided pre- and post-test counseling for persons convicted of any criminal offense and committed to the Adult Correctional Institution (ACI)	R23-6-HIV 2.9
		Mandatory pre- and post-test counseling for persons convicted of loitering for prostitution. persons convicted of prostitution, convicted sex offenders, for persons convicted of possession of hypodermic instrument for IV drug use, and all inmates	RIGL §23-6.3-4 RIGL §11-34.1-2 RIGL §11-34.1-12 RIGL §11-34.1-4 RIGL §11-34-11 RIGL §11-37-17 RIGL §21-28-4.20 RIGL §42-56-37 R23-6-HIV 2.9
		Convicted sex offenders upon court order petitioned by the victim	RIGL §11-37-17 R23-6-HIV 2.2
		All inmates	RIGL §42-56-37
	Mandatory testing outside of the criminal justice system	Occupational exposures – health care workers and existing blood samples of source patient. Testing of source patient without	RIGL §23-6.3-4 R23-6-HIV 5.0

PRE-TESTING		consent requires petition to the superior court for a court order mandating the test	
		Blood/organ/anatomical/semen donations	RIGL §23-18.6-12 RIGL §23-1-38 R23-6-HIV 2.12
		Professional mixed martial arts contestants	RIGL §41-5.2-5
	Mandatory offering of HIV/AIDS information and/or testing	HIV testing + information must be offered to all patients seeking STD services or treatment, all patients seeking prenatal care or family planning services, all intravenous drug using patients seeking treatment, all persons seeking services at facilities for intravenous drug users	RIGL §23-11-17 RIGL §23-13-19 RIGL § 23-17-31.1 RIGL §40.1-24-20 R23-6-HIV 2.1
		Needle exchange sites must offer HIV testing services	RIGL §23-11-19
		HIV testing must be offered to all eligible hospital patients	RIGL §23-17-31
		Physicians or other licensed health care providers shall routinely offer HIV testing to persons who may be at risk for HIV infection	R23-6-HIV 2.1
	Informed consent	Informed consent may be verbal or written	RIGL §23-6.3-3 R23-6-HIV 4.0
		Recommended screening with informed consent unless the patient declines – opt-out	RIGL §23-6.3-3
		Exceptions to required consent, including occupational exposures, emergency situations	RIGL §23-6.3-4 R23-6-HIV 5.0
	Written consent required for insurance testing	RIGL §23-6.3-16	
Counseling requirements	No person shall order an HIV test without providing pre-test specific information (may be oral or written) and an opportunity for counseling (case-by-case basis of extent and patient-specific tailoring)	RIGL §23-6.3-3 R23-6-HIV 2.2 R23-6-HIV 2.3 R23-6-HIV 3.2 R23-6-HIV 8.0	

POST-TESTING		HIV counseling means an interactive process of communication between a person and a health care provider or qualified professional HIV test counselor with an assessment of risk and the provision of counseling to assist the person with behavior changes to reduce risks	RIGL §23-6.3-2
		Positive test results must be given in person	RIGL §23-6.3-3
		Pre- and post-test counseling required (see code for content)	R23-6-HIV 8.0 R23-6-HIV 9.1 R23-6-HIV 9.2
		Needle exchange programs must offer pre- and post-test counseling	RIGL §23-11-19 R23-6-HIV 2.1
		Providers must offer pre-test counseling to women in prenatal care or family planning services; post-test counseling required for women who test positive	RIGL §23-13-19 R23-6-HIV 2.1
		Eligible hospital patients offered HIV testing must also be offered pre- and post-test counseling	RIGL §23-17-31 R23-6-HIV 2.1
		IV drug facilities must offer pre- and post-test counseling	RIGL §23-17-31.1 R23-6-HIV 2.1
	Anonymous testing	All individuals who desire anonymous HIV testing shall be referred to an HIV CTRS site funded by the department	RIGL §23-6.3-3 RIGL §23-6.3-13
		Only verbal informed consent required at anonymous testing sites	RIGL §23-6.3-3
	Disclosure/confidentiality	HIV test results as confidential	RIGL §23-6.3-7 R23-6-HIV 11.0
		Exceptions to confidentiality	RIGL §23-6.3-7 RIGL §23-28.36-3
		Partner notification	RIGL §23-6.3-10
		Patients must be notified of any lawful disclosures of their HIV status	RIGL §23-6.3-10 R23-6-HIV 12.0
	Penalties for unlawful disclosure	RIGL §23-6.3-9 R23-6-HIV 14.0	

OTHER	Reporting	Physicians/administrators required to report HIV positives	RIGL §23-6.3-14 R23-6-HIV 6.6
		Excepting anonymous testing, the name of the patient shall be reported	RIGL §23-6.3-14 R23-6-HIV 6.3 R23-6-HIV 6.8
		Reporting of perinatal exposure to HIV	RIGL §23-6.3-14 R23-6-HIV 13.0
	Testing of pregnant women and/or newborns	Attending physicians or health care providers must test pregnant women in prenatal care as early and often as appropriate with their consent as part of the routine panel of prenatal tests – opt-out testing	RIGL §23-13-19 RIGL §23-6.3-3
		Any woman with undocumented status at labor and delivery shall be screened with HIV test unless she opts-out	RIGL §23-6.3-3
		Pre-test information and counseling must be provided; client-specific counseling may be tailored to the individual for greater flexibility; information may be oral or written	RIGL §23-6.3-3
		Post-test counseling shall be provided for pregnant women who test HIV+	RIGL §23-6.3-3 R23-6-HIV 2.5
		Consent not required for testing newborns and persons under the age of one	RIGL §23-6.3-4 R23-6-HIV 5.1 (a)
		Newborns shall be tested immediately after birth when a mother's medical record lacks documentation, consent of the parents not required (see code for stipulations)	RIGL §23-6.3-3 R23-6-HIV 5.1 (h)
		Testing of minors/adolescents	Minors may consent to services for any reportable communicable disease; HIV explicitly included
Consent not required for testing minors (1-13 yrs) if appear symptomatic for HIV	RIGL §23-6.3-4 R23-6-HIV 5.1		
Consent not required for testing minor under the care and authority of the Rhode Island	RIGL §23-6.3-4 R23-6-HIV 5.1		

	Department for Children, Youth, and Families, and the Director of said Department certifies that an HIV test is necessary to secure health or human services	
Rapid HIV testing	All non-hospital, non-rapid HIV tests must be conducted in department of health labs	RIGL §23-6.3-15
	Rapid testing sites must seek a waiver from the department to provide confirmatory HIV testing from a lab other than the state lab, and shall forward all confirmatory HIV test results to the department	RIGL §23-6.3-15
Training and education of health care providers	Professional counselors, other than physicians, who are involved with counseling of clients at risk for HIV must complete an HIV counseling training program sponsored by the Department of Health or approved by the director	R23-6-HIV 7.0
	The department shall initiate medical provider training sessions, develop standardized materials to support more universal testing, utilize community input to create implementation plans, and evaluate the impact	RIGL §23-6.3-3

### Recommended Resources

#### State of Rhode Island General Laws

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

#### Rhode Island Rules and Regulations

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

#### Rhode Island Department of Health

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

#### Information for Providers: Laws, Rules, and Regulations

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

<b>Title 11: Criminal Offenses</b>
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<b>RI Title 11 Code §</b>	<b>Code Language</b>
§ 11-34-11	<p><b>Loitering for indecent purposes in or near schools</b></p> <p>Any person who violates this section by attempting to engage a person for the purpose of prostitution or other indecent act, or to patronize or induce or otherwise secure a person to commit any indecent act in the building or on the grounds or within three hundred (300) yards of the grounds of a public or private elementary, vocational, or secondary school, shall be punished by a term of imprisonment of not more than one year and a fine of not less than five hundred dollars (\$ 500) nor more than one thousand dollars (\$ 1,000).</p>
§ 11-34.1-1	<p><b>Definitions.</b></p> <p>The following words and phrases, when used in this chapter, have the following meanings:</p> <p>(1) "Sexual conduct" means sexual intercourse, cunnilingus, fellatio, anal intercourse, and digital intrusion or intrusion by any object into the genital opening or anal opening of another person's body, or the stimulation by hand of another's genitals for the purposes of arousing or gratifying the sexual desire of either person.</p> <p>(2) "Commercial sexual activity" means any sexual conduct which is performed or promised in return for a fee.</p> <p>(3) "Fee" means any thing of monetary value, including but not limited to money, given as consideration for sexual conduct.</p>
§ 11-34.1-2	<p><b>Prostitution.</b></p> <p>(a) A person is guilty of prostitution when such person engages or agrees or offers to engage in sexual conduct with another person in return for a fee. Any person found guilty under this section shall be deemed guilty of a misdemeanor and shall be subject to imprisonment for a term not exceeding six (6) months, or to a fine of not less than two hundred fifty dollars (\$250) nor more than one thousand dollars (\$1,000), or both.</p> <p>(b) Any person found guilty of a subsequent offense under this section shall be subject to imprisonment for a term of not more than one year, or a fine of not less than five hundred dollars (\$500) nor more than one thousand dollars (\$1,000), or both.</p> <p>(c) Any proceeds derived directly from a violation of this section are subject to seizure and forfeiture and further proceedings shall be had for their forfeiture as is prescribed by law in chapter 21 of title 12.</p> <p>(d) In any prosecution for a violation under this section it shall be an affirmative defense if the accused was forced to commit a commercial sexual activity by:</p> <p>(1) Being threatened or, subjected to physical harm;</p> <p>(2) Being physically restrained or threatened to be physically restrained;</p> <p>(3) Being subject to threats of abuse of law or legal process;</p> <p>(4) Being subject to destruction, concealment, removal or confiscation, of any passport or other immigration document, or any other</p>

<b>RI Title 11 Code §</b>	<b>Code Language</b>
	actual or purported governmental identification document; or (5) Being subject to intimidation in which the accused's physical well being was perceived as threatened.
§ 11-34.1-3	<p><b>Procurement of sexual conduct for a fee.</b></p> <p>(a) A person is guilty of procuring or attempting to procure sexual conduct for the payment of a fee if they engage or seek to engage in sexual conduct for any type of fee and/or pay or agree to pay any type of fee for sexual conduct, regardless of the time, place or location of the procurement, attempted procurement, payment, attempted payment or conduct. Any person found guilty under this section shall be deemed guilty of a misdemeanor and shall be subject to imprisonment for a term not exceeding one year, or to a fine of not less than two hundred fifty dollars (\$250) nor more than one thousand dollars (\$1,000), or both.</p> <p>(b) Any person found guilty of a subsequent offense under this section shall be subject to imprisonment for a term not exceeding one year, or a fine of not less than five hundred dollars (\$500) nor more than one thousand dollars (\$1,000), or both.</p>
§ 11-34.1-4	<p><b>Loitering for prostitution.</b></p> <p>(a) It shall be unlawful for any person to stand or wander in or near any public highway or street, or any public or private place, and attempt to engage passersby in conversation, or stop or attempt to stop motor vehicles, for the purpose of prostitution or other commercial sexual activity. Any person found guilty of the crime of loitering for prostitution shall be subject to a sentence of up to six (6) months incarceration or by a fine of not less than two hundred fifty dollars (\$250) nor more than one thousand dollars (\$1,000), or both.</p> <p>(b) Any person found guilty of a subsequent offense under this section shall be subject to imprisonment for a term not exceeding one year, or a fine of not less than five hundred dollars (\$500) nor more than one thousand dollars (\$1,000), or both.</p>
§ 11-34.1-6	<p><b>Soliciting from motor vehicles for indecent purposes – Forfeiture of motor vehicle.</b></p> <p>(a) It shall be unlawful for any person, while an operator or passenger in a motor vehicle to stop, or attempt to stop another vehicle or pedestrian, or to engage or attempt to engage persons in another vehicle or pedestrians in conversation, for the purposes of prostitution or other indecent act, or to patronize, induce, or otherwise secure another person to commit any commercial sexual activity. Any person found guilty under this section shall be subject to a sentence of up to six (6) months incarceration or a fine of not less than five hundred dollars (\$500) nor more than one thousand dollars (\$1,000), or both.</p> <p>(b) Any person found guilty of a subsequent offense under this section shall be subject to imprisonment for a term of not more than one year and a fine of not less than seven hundred fifty dollars (\$750) nor more than one thousand dollars (\$1,000). No fine imposed under this section may be suspended.</p> <p>(c) The motor vehicle being unlawfully operated as defined in this</p>

<b>RI Title 11 Code §</b>	<b>Code Language</b>
	chapter by a person convicted of a second or subsequent offense of soliciting from a motor vehicle for indecent purposes pursuant to this chapter which vehicle is owned by the operator, may be seized by the law enforcement agency and forfeited at the discretion of the court. Any funds received from the forfeiture shall be deposited in the victim's of crimes indemnity fund (VCIF).
§ 11-34.1-7	<p><b>Pandering or permitting prostitution – Not allowed.</b></p> <p>(a) It shall be unlawful for any person, by any promise or threat, by abuse of person, or by any other device or scheme, to cause, induce, persuade, or encourage a person to become a prostitute or to come into this state or leave this state for the purpose of prostitution. It shall be unlawful for any person to receive or give, or agree to receive or give, any money or thing of value for procuring or attempting to procure any person to become a prostitute or to come into this state or leave this state for the purpose of prostitution.</p> <p>(b) It shall be unlawful for any person to knowingly permit, allow, transport or offer or agree to receive any person into any place, structure, house, building, room, or business for the purpose of committing any commercial sexual activity, or knowingly permit any person to remain in the premises for those purposes, or to, in any way, aid or abet or participate in any of the acts or things enumerated in this chapter. It shall also be unlawful for any person, knowing a person to be a prostitute, who shall live or derive support or maintenance, in whole or in part, from the earnings or proceeds of commercial sexual activity, from moneys loaned, advanced to, or charged against the prostitute by a landlord, manager, owner of a spa or business or any other place where commercial sexual activity is practiced or allowed, or who shall share in the earnings, proceeds or moneys shall be guilty of the crime of permitting prostitution.</p> <p>(c) Every person who commits any of the offenses described in subsection (a) of this section, or who assists, abets, or aids another to commit any of those offenses, shall be guilty of pandering. For the first offense that person shall be punished by imprisonment for not less than one year and not more than five (5) years and a fine of not less than two thousand dollars (\$2,000), nor more than five thousand dollars (\$5,000). For every subsequent offense that person shall be punished by imprisonment for not less than three (3) years and not more than ten (10) years and a fine of not less than five thousand dollars (\$5,000), nor more than ten thousand dollars (\$10,000).</p>
§ 11-34.1-8	<p><b>Venue of pandering or permitting prostitution prosecutions.</b></p> <p>It shall not be a defense to any prosecution of any of the offenses described in this chapter that the offense or any part of the offense shall have been committed outside the state, and any offense described in this chapter may be alleged to have been committed. The offender may be prosecuted and punished in any county in which the offender or the person upon or against whom the offense was committed may be found, or in which the offense was consummated, or in which any overt acts in furtherance of the offenses shall have been committed.</p>
§ 11-34.1-9	<b>Spouse as witness in pandering or permitting prostitution.</b>

RI Title 11 Code §	Code Language
	<p>In any prosecution for any offense under this chapter, any person shall be a competent witness against the offender in relation to any offense committed by the offender upon or against him or her, or by the offender against or upon another person or persons in his or her presence, notwithstanding that person may have been married to the offender before or after the commission of the offense, and notwithstanding that person may be called as witness during the existence of the marriage or after its dissolution.</p>
§ 11-34.1-12	<p><b>Human Immunodeficiency Virus (HIV).</b></p> <p>a) Any person convicted of a violation of any provisions of this chapter shall be required to be tested for Human Immunodeficiency Virus (HIV). No consent for the testing shall be required.</p> <p>(b) The department of health shall maintain sites for providing both anonymous and confidential HIV testing, and HIV counseling and referral. Each site, funded by the department of health, shall offer free testing, counseling and referral for indigent parties and other individuals without health insurance, offer a sliding scale for payment for all other individuals and, in the case of confidential testing, screen for ability to pay through a third-party insurer. In the case of nonfunded sites for HIV testing, organizations and/or institutions performing the test shall offer free testing, counseling and referral for indigent parties and other individuals without health insurance.</p> <p>(c) All persons tested under this section shall be provided pre-test and post-test counseling by individuals trained by the department of health, as an HIV testing counselor, in accordance with regulations promulgated by the department of health; provided, that the counseling shall be in accordance with acceptable medical standards.</p> <p>(d) All persons who are tested under this section, who are determined to be injecting drug users, shall be referred to appropriate sources of substance abuse treatment by the HIV testing counselor and/or the attending practitioner as follows:</p> <p>(1) Those persons who test positive for HIV infection shall be given priority for those outpatient substance abuse treatment programs that are sponsored or supported by the appropriate state agency responsible for these services.</p> <p>(2) Those persons who are injecting drug users and test negative for HIV infection shall be referred, by the HIV testing counselor and/or attending practitioner, to the appropriate state agency responsible for these services for earliest possible evaluation and treatment.</p>
§ 11-37-17	<p><b>Human Immunodeficiency Virus (HIV) -- Mandatory testing</b></p> <p>(a) Any person who has admitted to or been convicted of or adjudicated wayward or delinquent by reason of having committed any sexual offense involving sexual penetration, as defined in § 11-37-1, whether or not sentence or fine is imposed or probation granted, shall be ordered by the court upon the petition of the victim, immediate family members of the victim or legal guardian of the victim, to submit to a blood test for the presence of a sexually transmitted disease including, but not limited to,</p>

<b>RI Title 11 Code §</b>	<b>Code Language</b>
	<p>the Human Immunodeficiency Virus (HIV) which causes Acquired Immune Deficiency Syndrome (AIDS) as provided for in chapter 23.6.3.</p> <p>(b) Notwithstanding the limitations imposed by §§ 23-6.3-7 and 5-37.3-4, the results of the HIV test shall be reported to the court, which shall then disclose the results to any victim of the sexual offense who requests disclosure. Review and disclosure of blood test results by the courts shall be closed and confidential, and any transaction records relating to them shall also be closed and confidential.</p>

**Title 15: Domestic Relations**

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

**Title 21: Food and Drugs**

<b>RI Title 21 Code §</b>	<b>Code Language</b>
§ 21-28-4.20	<b>Human immunodeficiency virus (HIV) -- Testing</b>  (a) Any person convicted of possession of any hypodermic instrument associated with intravenous drug use shall be required to be tested for human immunodeficiency virus (HIV) as provided for in chapter 23-6.3.

<b>Title 23: Health and Safety</b>
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<b>RI Title 23 Code §</b>	<b>Code Language</b>
§ 23-1-36.1	<b>Director's duties regarding diseases -- Marriage licenses</b>  [Repealed]
§ 23-1-38	<b>HIV antibody testing -- Sperm collection or donation</b>  The director shall promulgate guidelines for the prevention of transmission of HIV, and, particularly, in those instances of sperm collection or donation where the director shall require specific testing for HIV.
§ 23-6.3-1	<b>Purpose.</b>  The purpose of this chapter is to reduce vulnerability to HIV/AIDS transmission, protect persons who are infected with HIV from discrimination, ensure informed consent for testing, and to provide consistent terms and standards within this title and as applicable to chapters 11.34.1, 11-37, 21-28 and 40.1-24.
§ 23-6.3-2	<b>Definitions.</b>  As used in this chapter the following words shall have the following meanings:  (1) "Agent" means a person empowered by the patient to assert or waive the confidentiality, or to disclose or consent to the disclosure of confidential information, as established by chapter 5-37.3 of the general laws of Rhode Island, as amended, entitled "Confidentiality of Health Care Communications and Information Act."  (2) "AIDS" means the medical condition known as acquired immune deficiency syndrome, caused by infection of an individual by the human immunodeficiency virus (HIV).  (3) "Anonymous HIV testing" means an HIV test that utilizes a laboratory generated code based system, which does not require an individual's name or other identifying information that may reveal one's identity, including information related to the individual's health insurance policy, to be associated with the test.  (4) "Antibody" means a protein produced by the body in response to specific foreign substances such as bacteria or viruses.  (5) "Community-based organization" means an entity that has written authorization from the department for HIV counseling, testing and referral services (HIV CTRS).  (6) "Confidential HIV testing" means an HIV test that requires the individual's name and other identifying information including information

<b>RI Title 23 Code §</b>	<b>Code Language</b>
	<p>related to the individual's health insurance policy, as appropriate.</p> <p>(7) "Consent" means an explicit exchange of information between a person and a health care provider or qualified professional HIV test counselor through which an informed individual can choose whether to undergo HIV testing or decline to do so. Elements of consent shall include providing each individual with verbal or written information regarding an explanation of HIV infection, a description of interventions that can reduce HIV transmission, the meanings of positive and negative test results, the voluntary nature of the HIV testing, an opportunity to ask questions and to decline testing.</p> <p>(8) "Controlled substance" means a drug, substance, or immediate precursor in schedules I-V listed in the provisions of chapter 21-28 entitled, "Uniform Controlled Substances Act".</p> <p>(9) "Department" means the Rhode Island department of health.</p> <p>(10) "Diagnosis of AIDS" means the most current surveillance case definition for AIDS published in the Centers for Disease Control &amp; Prevention (CDC).</p> <p>(11) "Diagnosis of HIV" means the most current surveillance case definition for HIV infection published in the CDC's (MMWR).</p> <p>(12) "Director" means the director of the Rhode Island department of health.</p> <p>(13) "ELISA result" means enzyme-linked immunosorbent assay or EIA (enzyme immunoassay) which is a serologic technique used in immunology to detect the presence of either antibody or antigen.</p> <p>(14) "Health benefits" include accident and sickness, including disability or health insurance, health benefit plans and/or policies, hospital, health, or medical service plans, or any health maintenance organization plan pursuant to title 27 or otherwise.</p> <p>(15) "Health care facility" means those facilities licensed by the department in accordance with the provisions of chapter 23-17.</p> <p>(16) "Health care provider", as used herein, means a licensed physician, physician assistant, certified nurse practitioner or midwife.</p> <p>(17) "Health care settings" means venues offering clinical STD services including, but not limited to, hospitals, urgent care clinics, STD clinics and other substance abuse treatment facilities, mental health treatment facilities, community health centers, primary care and OB/GYN physician offices, and family planning providers.</p> <p>(18) "HIV" means the human immunodeficiency virus, the pathogenic</p>

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	<p>organism responsible for HIV infection and/or the acquired immunodeficiency syndrome (AIDS) in humans.</p> <p>(19) "HIV CD4 T-lymphocyte test result" means the results of any currently medic ally accepted and/or FDA approved test used to count CD4 T-lymphatic cells in the blood of an HIV infected person.</p> <p>(20) "HIV counseling" means an interactive process of communication between a person and a health care provider or qualified professional HIV test counselor during which there is an assessment of the person's risks for HIV infection and the provision of counseling to assist the person with behavior changes that can reduce risks for acquiring HIV infection.</p> <p>(21) "HIV screening" means the conduct of HIV testing among those who do not show signs or symptoms of an HIV infection.</p> <p>(22) "HIV test" means any currently medically accepted and/or FDA approved test for determining HIV infection in humans.</p> <p>(23) "Occupational health representative" means a person, within a health care facility, trained to respond to occupational, particularly blood borne, exposures.</p> <p>(24) "Opts out" means that a person who has been notified that a voluntary HIV test will be performed, has elected to decline or defer testing. Consent to HIV testing is inferred unless the individual declines testing.</p> <p>(25) "Perinatal case report for HIV" means the information that is provided to the department related to a child aged less than eighteen (18) months born to an HIV-infected mother and the child does not meet the criteria for HIV infection or the criteria for "not infected" with HIV as defined in the most current surveillance case definition for HIV infection published by the CDC.</p> <p>(26) "Person" means any individual, trust or estate, partnership, corporation (including associations, joint stock companies), limited liability companies, state, or political subdivision or instrumentality of a state.</p> <p>(27) "Persons at high risk for HIV infection" means persons defined as being high risk in the CDC's most current recommendations for HIV testing of adults, adolescents and pregnant women in health care settings or through authority and responsibilities conferred on the director by law in protecting the public's health.</p> <p>(28) "Polymerase chain reaction (PCR) test" means a common laboratory method of creating copies of specific fragments of DNA or RNA.</p> <p>(29) "Qualified professional HIV test counselor" means: (i) A physician, physician assistant, certified nurse practitioner, midwife, or nurse licensed to practice in accordance with applicable state law; (ii) A medical student</p>

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	<p>who is actively matriculating in a medical degree program and who performs duties assigned to them by a physician; or (iii) A person who has completed an HIV counseling training program, in accordance with regulations hereunder promulgated.</p> <p>(30) "Sexually transmitted diseases (STD's)" means those diseases included in section 23-11-1, as amended, entitled "Sexually Transmitted Diseases", and any other sexually transmitted disease that may be required to be reported by the department.</p>
§ 23-6.3-3	<p><b>HIV screening and testing of adults, adolescents, and pregnant women.</b></p> <p>(a) This section shall pertain to patients in all health care settings and HIV CTRS sites.</p> <p>(b) HIV screening and testing shall be based on the most current recommendations for HIV counseling, testing and referral of adults, adolescents and pregnant women issued by the CDC. Provided, however, those guidelines shall be interpreted by the department so as to best serve the individuals and patients receiving HIV testing, and shall in no event be interpreted or implemented in a manner inconsistent with the minimum informed consent standards and other provisions and protections of state law and regulations.</p> <p>(c) All individuals who desire anonymous HIV testing shall be referred to an HIV CTRS site funded by the department that provides anonymous HIV testing.</p> <p>(d) All health care settings and HIV CTRS sites shall develop protocols that include no less than the following: assessment for individuals at high risk for HIV infection; frequency of HIV testing; communication of HIV test results; and post-test linkages to needed care and support services.</p> <p>(e) Those adults, adolescents and pregnant women who test positive for HIV infection shall be given priority for outpatient substance abuse treatment programs that are sponsored or supported by the appropriate state agency responsible for these services, and those who test negative for HIV infection shall be referred to the appropriate state agency responsible for these services for earliest possible evaluation and treatment.</p> <p>(f) A positive test result must be given in person. Persons testing positive for HIV must also be provided with linkages and referrals to HIV-related counseling, health care and support.</p> <p>(g) All persons tested under this section shall be informed of the results of the HIV test.</p> <p>(h) Consent and providing information for HIV testing:</p> <p>(1) Except as provided in section 23-6.3-4, HIV screening shall be</p>

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	<p>voluntary, free from coercion, incorporated into routine medical testing, and undertaken only with the individual's knowledge and understanding that HIV testing will be performed.</p> <p>(2) No person shall order the performance of an HIV test without first: (i) Providing the information and opportunity for discussion or counseling set forth in this section; (ii) Informing the patient that he or she has a right to decline testing; and (iii) Obtaining the oral consent of the patient to be tested or of a person authorized to consent to health care for such individual. Said consent and exchange of HIV information shall be documented in the patient's medical record.</p> <p>(3) A physician or health care provider may tailor HIV counseling to best meet the needs of the individual to be tested. Decisions concerning patient-specific tailoring and the extent of pre-test counseling shall be made on a case-by-case basis.</p> <p>(4) In no event shall a patient be tested for HIV pursuant to this section without first being provided with verbal or written information that includes the following:</p> <ol style="list-style-type: none"> <li>(1) An explanation of HIV infection;</li> <li>(2) A description of interventions that can reduce HIV transmission;</li> <li>(3) The meanings of positive and negative test results;</li> <li>(4) The possibility that a recent infection may not be detected; and</li> <li>(5) An opportunity to ask questions and to decline testing.</li> </ol> <p>(i) For pregnant women:</p> <ol style="list-style-type: none"> <li>(1) HIV screening shall be incorporated as part of routine prenatal testing for all pregnant women as early and often as appropriate during each pregnancy after the patient has been notified that voluntary testing, in accordance with the consent and information requirements of subsection (h), will be performed unless the patient opts out.</li> <li>(2) Any woman with an undocumented HIV test status in her record at the time of labor and/or delivery shall be screened with an HIV test in accordance with the consent and information requirements of subsection (h), unless she opts out.</li> <li>(3) A newborn shall be tested as soon as possible at delivery without the mother's consent if the mother's HIV status is not documented, provided that: <ol style="list-style-type: none"> <li>(i) Reasonable efforts have been made to secure voluntary consent from the mother to test the newborn; and</li> </ol> </li> </ol>

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	<p>(ii) A mother is informed that HIV antibodies in the newborn indicate that the mother is infected with HIV.</p> <p>(j) The department shall provide guidance and access to written information to be used for the purposes of this section. This information shall notify the patients about risk-reduction strategies; the merits of repeat HIV and STD testing; and the availability of counseling and HIV prevention services. Informational materials shall be easily understandable and made available in Spanish and in other languages as appropriate to assure that the information presented is in a format that the individual can understand. Interpreters and bilingual staff shall demonstrate competency in providing language assistance to patients with limited English proficiency. Family or friends shall not be used as language interpreters.</p> <p>(k) A distinction shall be made between anonymous and confidential HIV testing. To protect the anonymity of patients tested anonymously, written consent shall not be offered as an option to verbal informed consent in anonymous testing.</p> <p>(l) In accordance with chapter 23-8, individuals under eighteen (18) years of age may give legal consent for testing, examination, and/or treatment for any reportable communicable disease, including HIV.</p> <p>(m) The department shall initiate medical provider training sessions, develop standardized materials to support more universal testing, utilize community input to create implementation plans, and evaluate the impact of this section.</p> <p>(n) No physician or health care provider shall discriminate against a patient because he or she is HIV positive or has declined to take an HIV test.</p>
§ 23-6.3-4	<p><b>Exceptions to consent requirements.</b></p> <p>(a) A health care provider may test for the presence of HIV without obtaining consent from the individual to be tested under the following conditions:</p> <p>(1) When the individual to be tested is under one year of age;</p> <p>(2) When a child between one and thirteen (13) years of age appears to be symptomatic for HIV;</p> <p>(3) When the individual to be tested is a minor under the care and authority of the department of children, youth and families, and the director of that department certifies that an HIV test is necessary to secure health or human services for that individual;</p> <p>(4) In a licensed health care facility or health care setting, in the event that an occupational health representative or physician, registered nurse practitioner, physician assistant, or nurse-midwife, not directly involved in the exposure, determines that an employee or emergency service worker,</p>

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	<p>other than one in a supervisory position to the person making the determination, had a significant exposure to the blood and/or body fluids of a patient and the patient or the patient's guardian refuses to grant consent for an HIV test to determine whether the patient has HIV, then, if a sample of the patient's blood is available, that blood shall be tested for HIV.</p> <p>(i) If a sample of the patient's blood is not otherwise available and the patient refuses to grant consent to draw blood, the employee or emergency service worker may petition the superior court for a court order mandating that the test be performed.</p> <p>(ii) Before a patient or a sample of the patient's blood is required to undergo an HIV test, the employee or emergency service worker must submit to a baseline HIV test within seventy-two (72) hours of the exposure.</p> <p>(iii) No person who determines that an employee or emergency service worker has sustained a significant exposure and authorizes the HIV testing of a patient, nor any person or health care facility who acts in good faith and recommends the test be performed, shall have any liability as a result of their actions carried out under this chapter, unless those persons are proven to have acted in bad faith.</p> <p>(iv) For the purposes of this section, "emergency service worker" means a worker responding on behalf of a licensed ambulance/rescue service, or a fire department or a law enforcement agency, who, in the course of his/her professional duties, has been exposed to bodily fluids in circumstances that present a significant risk of transmission of HIV, and has completed a pre-hospital exposure form in accordance with section 23-4.1-19.</p> <p>(5) In an emergency, where due to a grave medical or psychiatric condition, and it is impossible to obtain consent from the patient or, if applicable under state law, the patient's parent, guardian, or agent.</p> <p>(6) As permitted under section 23-1-38 entitled "HIV Antibody Testing-Sperm Collection or Donation".</p> <p>(7) Any individual convicted of a violation of any provisions of Chapter 11.34.1 entitled "Commercial Sexual Activity", shall be required to be tested for HIV unless already documented HIV positive. All individuals tested under this section shall be informed of their test results. All individuals tested under this section who are determined to be injecting and/or intra-nasal drug users shall be referred to appropriate substance abuse treatment as outlined in subsection 23-6.3-3(e).</p> <p>(8) Any individual convicted of possession of any controlled substance as defined in Chapter 21-28 entitled "Uniform Controlled Substances Act", that has been administered with a hypodermic instrument, retractable hypodermic syringe, needle, intra-nasally, or any similar instrument</p>

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	<p>adapted for the administration of drugs shall be required to be tested for HIV unless already documented HIV positive.</p> <p>(9) All individuals tested under this section shall be informed of their test results.</p> <p>(10) In accordance with the provisions of Chapter 11-37, entitled, "Sexual Assault", any individual who has admitted to or been convicted of or adjudicated wayward or delinquent by reason of having committed any sexual offense involving penetration whether or not a sentence or fine is imposed or probation granted, shall be ordered by the court upon petition of the victim, immediate family members of the victim or legal guardian of the victim, to submit to a blood test for the presence of a sexually transmitted disease including, but not limited to, HIV. All individuals tested under this section shall be informed of their test results.</p> <p>(11) In accordance with the provisions or section 42-56-37, entitled "HIV Testing", every individual who is committed to the adult correctional institutions to any criminal offense, after conviction, is required to be tested for HIV.</p> <p>(b) It is unlawful for any person to disclose to a third party the results of an individual's HIV test without the prior written consent of that individual, except in accordance with section 23-6.3-7.</p>
§ 23-6.3-5	<p><b>Reasonable efforts to secure consent.</b></p> <p>No involuntary testing for HIV shall take place under any of the exceptions set forth in section 23-6.3-4, unless reasonable efforts have been made to:</p> <p>(1) Secure voluntary consent from the individual to be tested, or in the case of a minor patient, from the legal parent or guardian of the minor patient; and (2) Provide verbal or written information as specified in subsection 23-6.3-3(h).</p>
§ 23-6.3-6	<p><b>Due process – Right to bring suit.</b></p> <p>Nothing in section 23-6.3-1 to 23-6.3-16 shall be construed to limit or deprive any person of his or her right to due process of law, or to bar an action of relief and/or damages before a court of competent jurisdiction.</p>
§ 23-6.3-7	<p><b>Confidentiality.</b></p> <p>(a) It is unlawful for any person to disclose to a third-party the results of an individual's HIV test without the prior written consent of that individual, except for:</p> <p>(1) A licensed laboratory or other health care facility that performs HIV tests shall report test results to the health care provider who requested the test and to the director.</p> <p>(2) A health care provider shall enter HIV test results in the patient's medical record.</p>

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	<p>(3) Notification to the director of the department of children, youth and families, pursuant to subdivision 23-6.3-4(3).</p> <p>(4) As provided in chapter 5-37.3, section 40.1-5-26, sections 23-6.3-10 and 23-6.3-14 or as otherwise permitted by law.</p> <p>(5) By a health care provider to appropriate persons entitled to receive notification of individuals with infectious or communicable diseases pursuant to sections 23-5-9 and 23-28.36-3.</p> <p>(b) This chapter shall not be construed to interfere with any other federal or state laws or regulations that provide more extensive protection than provided in this chapter for the confidentiality of health care information.</p>
§ 23-6.3-8	<p><b>Protection of records.</b></p> <p>(a) Providers of health care, public health officials, and any other person who maintains records containing information on HIV test results of individuals are responsible for maintaining full confidentiality of this data and shall take appropriate steps for their protection, including:</p> <ol style="list-style-type: none"> <li>(1) Keeping records secure at all times and establishing adequate confidentiality safeguards for any records electronically stored;</li> <li>(2) Establishing and enforcing reasonable rules limiting access to these records; and</li> <li>(3) Training persons who handle records in security objectives and technique.</li> </ol> <p>(b) The department shall evaluate reports of HIV/AIDS for completeness and potential referrals for service. All case reports shall be kept in a confidential and secure setting. An HIV/AIDS policy and protocol for security shall be developed and implemented by the department for this purpose.</p> <p>(c) The department shall evaluate its procedures for HIV/AIDS reporting on a continuous basis for timeliness, completeness of reporting, and security of confidential information.</p> <p>(d) The department shall develop a protocol that shall be in accordance with the most recent recommendations of the CDC's Guidelines for National Human Immunodeficiency Virus Case Surveillance, including monitoring for Human Immunodeficiency Virus infection and Acquired Immunodeficiency Syndrome, pertaining to patient records and confidentiality; provided, however, that in no event shall the protocol be less protective than that required by state law.</p> <p>(e) All reports and notifications made pursuant to this section shall be confidential and protected from release except under the provisions of law. Any person aggrieved by a violation of this section shall have a right of action in the superior court and may recover for each violation.</p>

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§ 23-6.3-9	<p><b>Penalties and remedies.</b></p> <p>The penalties and remedies contained in chapter 5-37.3 entitled "Confidentiality of Health Care Communications and Information" shall apply to violations of sections 23-6.3-7 confidentiality and 23-6.3-8 protection of records.</p>
§ 23-6.3-10	<p><b>Notification of disclosure.</b></p> <p>(a) In all cases when an individual's HIV test results are disclosed to a third-party, other than a person involved in the care and treatment of the individual, and except as permitted by sections 23.6.3-7 (permitted disclosures re: confidentiality), and permitted by and disclosed in accordance with the Federal Health Insurance Portability and Accountability Act of 1996 (Public law 104- 191) enacted on August 21, 1996 and as thereafter amended, the person so disclosing shall make reasonable efforts to inform that individual in advance of:</p> <ol style="list-style-type: none"> <li>(1) The nature and purpose of the disclosure;</li> <li>(2) The date of disclosure;</li> <li>(3) The recipient of the disclosed information.</li> </ol> <p>(b) Health care providers may inform third-parties with whom an HIV infected patient is in close and continuous exposure related contact, including, but not limited to a spouse and/or partner, if the nature of the contact, in the health care providers opinion, poses a clear and present danger of HIV transmission to the third-party, and if the physician has reason to believe that the patient, despite the health care provider's strong encouragement, has not and will not inform the third-party that they may have been exposed to HIV.</p>
§ 23-6.3-11	<p><b>Discrimination prohibited.</b></p> <p>No person, agency, organization, or legal entity may discriminate against an individual on the basis of a positive HIV test result, or perception of a positive test, in housing, education, employment, the granting of credit, public accommodation, or delivery of services, nor shall an HIV test be required as a condition of employment.</p>
§ 23-6.3-12	<p><b>Administrative relief.</b></p> <p>Any individual who believes that he or she has been unlawfully discriminated against in housing, education, employment, the granting of credit, public accommodations, or delivery of services on the basis of a positive HIV test, or perception of a positive test, may bring action for administrative relief before the Rhode Island human rights commission; and that commission may hear the matter and grant relief in those cases.</p>
§ 23-6.3-13	<p><b>HIV Counseling, Testing, Referral and Services Sites (HIV CTRS)</b></p> <p>The department shall designate and fund HIV CTRS sites, for providing both anonymous and confidential HIV testing and HIV counseling and referral services. Anonymous and confidential HIV testing provided by HIV CTRS</p>

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	sites funded by the department shall screen individuals for their ability to pay for such HIV testing, using a fee schedule and screening process available to the department on request. HIV CTRS sites shall not deny HIV testing to any individual based on his or her inability to pay.
§ 23-6.3-14	<p><b>Reporting and notification of HIV/AIDS</b></p> <p>(a) Except in the case of anonymous HIV testing, a diagnosis of HIV or AIDS shall be notifiable and reportable to the department by name. The following shall be reported to the department:</p> <p>(1) A diagnosis of HIV, according to the most current CDC case definition of HIV.</p> <p>(2) A diagnosis of AIDS, according to the most recent CDC case definition of AIDS.</p> <p>(3) A positive ELISA result of any HIV test and/or other FDA approved test indicative of the presence of HIV.</p> <p>(4) Notification of a perinatal exposure to HIV shall be made to the department regardless of confirmatory testing. A perinatal case report for HIV shall be indicated by two (2) positive polymerase chain reaction (PCR) tests; &lt;18 months; and/or other U.S. Food and Drug Administration approved tests that indicate the presence of HIV in pediatric cases.</p> <p>(b) The following persons shall report information required by this section to the department:</p> <p>(1) A health care provider who diagnoses or treats HIV/AIDS;</p> <p>(2) The administrator of a health care facility as defined in Chapter 23-17 who diagnoses or treats HIV/AIDS; or</p> <p>(3) The administrator of a prison in which there is an HIV/AIDS infected individual or perinatal exposure to HIV/AIDS.</p> <p>(c) A person responsible for the administration of a clinical or hospital laboratory, blood bank, mobile unit, or other facility in which a laboratory examination of any specimen derived from a human body yields serological, or other evidence of HIV/AIDS, including perinatal exposure to HIV/AIDS shall notify the department in a timely manner.</p> <p>(d) All positive HIV test results shall be confirmed with a Western Blot or other FDA approved confirmatory test.</p>
§ 23-6.3-15	<p><b>Laboratory analyses and reporting.</b></p> <p>(a) All biological samples or specimens taken for the purpose of performing laboratory analysis for the detection of antibody to HIV, by or under the direction or order of any health care provider working within the scope of his or her practice, shall be sent to the department of health laboratory for</p>

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	<p>analysis. This provision shall not apply to those HIV tests performed in a hospital laboratory or to those sites performing rapid HIV testing.</p> <p>(b) Hospitals shall forward all positive confirmatory HIV test results to the department. All sites performing HIV testing must submit an annual HIV testing report to the department in accordance with regulations promulgated by the department.</p> <p>(c) The department laboratory shall conduct all confirmatory testing for HIV/AIDS with the exception of written waivers issued by the department as indicated in (d) below.</p> <p>(d) Sites performing non-venapuncture HIV testing (e.g. rapid testing), must seek a waiver from the department to provide confirmatory HIV testing from a laboratory other than the state laboratory, and shall forward all positive and negative confirmatory HIV tests results to the department.</p> <p>(e) Except in the case of anonymous HIV testing, a health care provider working within the scope of his or her practice providing samples of specimens for HIV testing, or results of HIV tests to the department, shall include the name of the patient and other identifying information including information related to the individual's health insurance policy as applicable.</p> <p>(f) Any HIV cases reported in the previous code based system, shall remain in a code based data set. This does not prohibit a physician from submitting or requesting that an updated name case report on a patient replace a previously coded case report.</p>
§ 23-6.3-16	<p><b>Insurance Exemption.</b></p> <p>(a) Sections 23-6.3-1 through 23-6.3-14 do not apply to the offering or sale of life insurance in Rhode Island; provided, however, that any insurance company offering or selling life insurance within Rhode Island that requires an individual to be tested for infection with human immunodeficiency virus (HIV) or any other identified causative agent of HIV for purposes of determining insurability shall: (1) Give that individual prior written notice of those requirements; (2) Proceed with that testing only upon the written authorization of the individual or in the event the individual is a minor, the individual's parent or guardian; and (3) Notify the tested person of his or her positive or negative test results. If the person has a positive test result he or she must receive appropriate information and referral from the insurance company. Notwithstanding anything in this chapter to the contrary, life insurance companies offering or selling life insurance in Rhode Island may otherwise obtain or disclose HIV test results in accordance with this chapter. Nothing in this chapter prohibits that company from collecting data for statistical purposes, so long as the insured is not identified. However, nothing in this section shall be construed to permit that insurance company to cancel or refuse to renew a life insurance policy that by its terms has not lapsed on the basis of a positive HIV test result.</p> <p>(b) The provisions of this chapter apply to the offer or sale of health</p>

<b>RI Title 23 Code §</b>	<b>Code Language</b>
	<p>benefits in this state by any company regulated under the laws of this state, including, but not limited to, title 27 and chapter 42-62, provided, however, this chapter does not apply to the following:</p> <p>(1) Individual health benefit policies;</p> <p>(2) Small group health benefits plans, i.e., groups having fewer than twenty-five (25) employees eligible to participate in an employer sponsored plan, or, in the case of non-employer groups, a group having fewer than twenty-five (25) employees;</p> <p>(3) Late entrants into any group health benefits plan, regardless of the size of the group. A late entrant shall be defined as any individual who does not enroll into a health plan when first eligible under the plan, but who later seeks coverage under the group plan;</p> <p>(4) Where an individual seeks to become eligible for an amount of group disability income benefit, which benefit would be in excess of the insurer's non-medical maximum as defined under the group plan.</p> <p>(c) Any company offering or selling health benefits in this state and regulated under the laws of this state that requires an individual to be tested for infection with HIV or any other identified causative agent of HIV as permitted in paragraphs (2)(i) to (iv) for purposes of determining insurability shall: (1) Give that individual prior written notice of those requirements; and (2) Proceed with that testing only upon the written authorization of the individual, or in the event the individual is a minor, the individual's parent or guardian. Notwithstanding anything in this chapter to the contrary, companies offering or selling health benefits in this state may otherwise obtain or disclose HIV test results in accordance with this chapter. Nothing in this chapter shall prohibit that company from collecting data for statistical purposes so long as the identity of the insured may not be determined from the information released.</p> <p>(d) Nothing in this chapter shall be construed to permit any company that offers or sells health benefits in this state to cancel or refuse to renew a health benefit, which has not by its terms lapsed, on the basis of a positive HIV test result.</p>
§ 23-6.3-17	<p><b>Rules and Regulations.</b></p> <p>The director is authorized to promulgate regulations as he or she deems necessary or desirable to implement the provisions of this chapter, in accordance with the provisions set forth in section 23-1-17 and chapter 42-35.</p>
§ 23-6.3-18	<p><b>Severability.</b></p> <p>If any provision of this chapter is held by a court to be invalid, that invalidity shall not affect the remaining provisions of the chapter, and to this end the provisions of the chapter are declared severable.</p>
§ 23-6.3-19	<p><b>Construction of the chapter.</b></p>

<b>RI Title 23 Code §</b>	<b>Code Language</b>
	This chapter shall be liberally construed to accomplish the purposes sought in it.
§ 23-8-1.1	<p><b>Consent to testing and treatment -- Reportable -- Communicable diseases</b></p> <p>Persons under eighteen (18) years of age may give legal consent for testing, examination, and/or treatment for any reportable communicable disease.</p>
§ 23-11-17	<p><b>Human immunodeficiency virus (HIV) testing</b></p> <p>(1) The physician or health care provider attending any person for a suspected sexually transmitted disease shall offer testing for human immunodeficiency virus (HIV). All testing pursuant to this section shall be as provided for in chapter 23-6.3.</p>
§ 23-11-19	<p><b>Exchange of hypodermic needles and syringes</b></p> <p>(a) The director of the department of health shall maintain a program offering the free exchange of new hypodermic needles and syringes for used hypodermic needles and syringes as a means to prevent the transmission of human immunodeficiency virus (HIV) among intravenous drug users eighteen (18) years of age or older. Any site used in the program shall make available educational materials, HIV counseling and testing, and referral services targeted to the education of AIDS transmission and drug abuse prevention and treatment. Any individual(s) who either administers or participates in the program shall be immune from criminal prosecution for violating the provisions of § 21-28.5-1(a)(11) [deleted], unless the individual(s) is found to have in his or her possession hypodermic needles and syringes that are not a part of the exchange program.</p> <p>(b) Any program of needle and syringe exchange must be implemented pursuant to the provisions of this section and shall incorporate an on-going evaluation plan to determine the impact of the needle exchange program on the participants and the community in the efforts to lower the HIV rate among injecting users including successful referrals to substance abuse treatment.</p>
§ 23-13-19	<p><b>Human immunodeficiency virus (HIV) testing</b></p> <p>(a) Every physician or health care provider attending any person for prenatal care or family planning services shall include HIV screening consistent with the provisions of chapter 23-6.3.</p>
§ 23-17-31	<p><b>Human immunodeficiency virus (HIV) testing -- Hospitals</b></p> <p>(a) Hospital patients in any hospital licensed under this chapter shall be offered testing for human immunodeficiency virus (HIV) as set forth in chapter 23-6.3</p>
§ 23-17-31.1	<p><b>Human immunodeficiency virus (HIV) testing -- Facilities for drug abusers</b></p>

<b>RI Title 23 Code §</b>	<b>Code Language</b>
	<p>[also listed under Title 40.1 as §40.1-24-20]</p> <p>(a) Every physician or health care provider attending any person for any service offered at a facility for injecting drug users, shall offer testing for human immunodeficiency virus (HIV). All testing pursuant to this section shall be performed in accordance with the provisions of chapter 23-6.3, except where federal confidentiality laws may supersede.</p> <p>(b) The department of health shall maintain sites for providing both anonymous and confidential HIV testing, and HIV counseling and referral. Each site, funded by the department of health, shall offer free testing, counseling and referral for indigent parties and other individuals without health insurance, offer a sliding scale for payment for all other individuals and, in the case of confidential testing, screen for ability to pay through a third-party insurer. In the case of nonfunded sites for HIV testing, organizations and/or institutions performing the test shall offer free testing, counseling and referral for indigent parties and other individuals without health insurance.</p>
§ 23-18.6-12	<p><b>Acquired immune deficiency syndrome testing</b></p> <p>Prior to any organ, tissue, or part of a human body being transplanted in any human being, the donor shall be tested for the presence of antibodies to the probable causative agent for acquired immune deficiency syndrome (AIDS), provided that this condition shall not apply if there is a bona fide documentable medical emergency which endangers the life of any person. If the test for the presence of the antibodies is positive, the organ, tissue, or body part shall not be used.</p>
§ 23-28.36-3	<p><b>Notification of Fire Fighters, Police Officers and Emergency Medical Technicians After Exposure to Infectious Diseases</b></p> <p>Notification of infectious diseases. – (a) Notwithstanding the provisions of §§ 40.1-5-26 (disclosure of confidential information and records under mental health law) and 5-37.3-4 (confidentiality of health care information), if, while treating, investigating, or transporting an ill or injured person to a licensed facility, a fire fighter, police officer, strike force member or emergency medical technician is occupationally exposed (e.g. blood borne exposure) to a person who is subsequently diagnosed as having an infectious disease, and the exposure is sufficient to create the risk of transmission of the disease, the licensed facility receiving that person shall notify the highest ranking officer of the treating, investigating, or transporting individual's department of health of the exposure to that person which officer shall then notify the exposed individual. Further, any city or town police department notified of infectious diseases pursuant to the provisions of this section shall, within forty-eight (48) hours, notify any strike force member who was exposed to the infected person.</p> <p>(b) The notification shall be made within forty-eight (48) hours, or sooner, of confirmation of the patient's diagnosis.</p>

<b>RI Title 23 Code §</b>	<b>Code Language</b>
	<p>(c) The notified employee shall contact the licensed health care facility to determine the infectious disease to which he or she has been exposed, and to receive the appropriate medical direction for dealing with the infectious disease.</p> <p>(d) Notification made pursuant to this section shall be conducted in a manner which will protect the confidentiality of the patient, fire fighter, police officer, or emergency technician.</p>

**Title 40.1: Mental Health, Retardation, and Hospitals**

<b>RI Title 40.1 Code §</b>	<b>Code Language</b>
§ 40.1-24-20	<b>Human immunodeficiency virus (HIV) testing – Facilities for drug users.</b>  (a) Every physician or health care provider attending any person for any service offered at a facility for intravenous drug users, shall offer testing for human immunodeficiency virus (HIV). All testing pursuant to this section shall be performed in accordance with the provisions of chapter 23-6.3

**Title 41: Sports, Racing, and Athletics**

<b>RI Title 41 Code §</b>	<b>Code Language</b>
§ 41-5.2-5	<b>Drug and H.I.V. testing.</b>  All contestants in a professional mixed martial arts match shall submit to drug and H.I.V. testing under such rules and regulations and for such drugs as the division of racing and athletics shall prescribe. The costs of the drug testing shall be paid by the contestant and/or promoter for the mixed martial arts match.

<b>Title 42: State Affairs and Government</b>
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RI Title 42 Code §	Code Language
§ 42-56-37	<p><b>Human Immunodeficiency Virus (HIV) testing</b></p> <p>(a) Every person who is committed to the adult correctional institution to answer for any criminal offense, after conviction, is required to be tested for human immunodeficiency virus (HIV). No consent for this test is required from the person being tested, nor is this test subject to waiver. In addition, periodic testing for HIV, including testing at the time of release and when deemed appropriate by a physician, is required. No consent on the part of the person being tested is required.</p> <p>(b) All inmates shall be provided appropriate pretest and post-test counseling in accordance with accepted medical standards. Inmates who develop AIDS or AIDS related complex are entitled to all reasonable medical treatment available for their illness. No inmate shall be punished, segregated, or denied recreation privileges solely on the basis of a positive test result. However, the health care services division of the department of corrections shall, not later than September 1, 1998, adopt and put into effect reasonable rules and steps to protect the confidentiality of the HIV test results, in accordance with § 23-6.3-8 and to prevent persons testing positive for HIV from infecting other inmates and/or correctional staff. If any person, including any member of the correctional staff at the state department of corrections, is assaulted or comes into contact with bodily fluid from an inmate or detainee, a department of corrections physician will incorporate accepted medical standards and determine whether the incident places the exposed person at risk for HIV or any other blood borne disease. This may involve drawing a serum sample on the source inmate or detainee in accordance with § 23-6.3-4 and performing tests to determine the presence of blood borne infections such as HIV or hepatitis virus. The physician will immediately inform the exposed person of the medical assessment of risk, which will take into account the serostatus of the source inmate or detainee, and will provide for emergency medical care, according to accepted medical standards.</p> <p>(c) The department of corrections shall institute a comprehensive HIV education and drug treatment program for inmates and staff at all of its facilities. The educational program for correctional staff shall be inservice, fully reimbursable to the employee, and mandatory and shall be given periodically in collaboration with the department of health. The department of corrections shall make easily accessible personal protective equipment for correctional personnel to be used in the event of administering cardiac or respiratory resuscitation.</p>

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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