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JNS Analysis:

> Under current law, a person generally may not be subjected to a test for human immunodeficiency virus (HIV) unless he or she consents to the test. The results of an HIV test are generally confidential and may not be disclosed unless the test subject authorizes disclosure. Current law specifies certain circumstances under which another person may provide consent for HIV testing of an individual and disclosure of HIV test results. For example, if a person has designated a health care agent and has been found to be incapacitated, the person's health care agent may provide consent for HIV testing and disclosure of the test results. In addition, a parent may consent to HIV testing and disclosure of test results on behalf of a minor who is less than 14 years of age.

> Current law provides several exceptions to the consent requirement for HIV testing. The exception for cases of so-called "significant exposure" provides that if a person working in certain occupations such as health care, corrections, or education, is exposed to the body fluid of another individual under circumstances that may allow for transmission of HIV, and a health care provider certifies that a significant exposure occurred, the person may have the individual tested for HIV without the individual's consent. If the individual is tested, the person who requested the test may obtain the results of the test. The individual may be informed of his or her own test results only if he or she consents to being informed.

Current law provides a number of additional exceptions to confidentiality of HIV test results. For example, under certain circumstances HIV test results may be disclosed without the test subject's consent to a health care provider, a jailer or corrections employee, a foster parent, and a victim of sexual assault, among others.

Current law specifies that if consent is required for HIV testing, it must be provided in writing on a form that includes an explanation regarding permitted disclosure of HIV test results. Authorization for disclosure of test results must also be provided in writing.

Current law also provides that a health care provider, blood bank, or blood or plasma center that performs an HIV test, must report positive HIV test results to the state epidemiologist or his or her designee. Current law allows a health care provider who has a record of an individual's positive HIV test results to report to the state epidemiologist the name of any person who had significant exposure to the test subject.

> Current law provides a criminal penalty for intentionally violating prohibitions against disclosing HIV test results without the test subject's consent. Current law also allows civil damages for violating the prohibitions against disclosure.

> This bill changes the consent provisions for HIV testing. Under the bill, a health care provider, blood bank, blood center, or plasma center may perform an HIV test on a person if it first notifies the person that the test will be performed unless the person declines the test; ensures that the person understands that an HIV test will be performed; provides the person certain information about HIV, HIV

and for violating consent requirements for HIV testing

treatment options, organizations that provide services to persons with HIV, and mandatory disclosure of test results; provides the person an opportunity to ask questions; and ensures that the person's consent to the test or failure to decline the test is voluntary. In addition, a health care provider must notify a potential test subject that health care services will not be withheld from the potential subject if he or she declines the test. Under the bill, the person's consent or failure to decline an HIV test may be oral or written, and the health care provider, blood bank, or blood or plasma center may provide the required information and notices for potential test subjects either orally or in writing. The bill requires the Department of Health Services to provide health care providers, blood banks, and blood or plasma centers materials that include the information and notices that must be provided to potential test subjects. The bill provides that a health care provider may not require a person to authorize disclosure of HIV test results as a condition of administering an HIV test to the person.

Other changes in the bill include the following:

> 1. The bill specifies elements that must be included in an authorization to disclose HIV test results, including the name and signature of the person who authorizes the disclosure, specification of what information may be disclosed, the name of the person to whom the information may be disclosed, and the period in which disclosure is permitted.

2. The bill eliminates the condition that an individual who is tested for HIV in a case of significant exposure consent to being informed of his or test results before he or she may be notified of the test results.

3. The bill provides that a good samaritan who renders aid to an accident victim and has a significant exposure to body fluid of the victim may cause the victim to be tested for HIV without the victim's consent.

> 4. The bill provides that a guardian may consent to or decline an HIV test for a ward.

5. The bill specifies that if a minor is at least 14 years of age, the minor and not his or her parent, has authority to consent to or decline an HIV test and authorize disclosure of his or her HIV test results.

6. The bill provides that a physician assistant has the same authority as a physician and certain nurses to certify that a significant exposure has occurred for purposes of requiring HIV testing without consent, to disclose to the state epidemiologist the name of a person who may have had a significant exposure to a person who has tested positive for HIV, to administer certain court-ordered HIV tests, and to receive certain HIV test results.

the 7. The bill provides that when a health care provider, blood bank, or blood or plasma center reports a positive HIV test result to the state epidemiologist, it must also report the mode of HIV transmission. must include

8. The bill increases the criminal fine and civil damages amounts for violating prohibitions against disclosing HIV test results without consent.

9. The bill eliminates a state law requirement for HIV testing of sperm and ova that are donated as anatomical gifts. Federal law requires HIV testing of all donated sperm and ova.

and increases the civil damages amounts for violating consent requirements for HIV testing

10. The bill makes numerous changes that modernize and simply references to HIV tests and reorganizes provisions relating to HIV testing and disclosure of HIV test results.

simplify

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Ins 11-21:

SECTION 1. 252.15 (1) (aL) of the statutes is created to read:

(aL)

252.15 (1) (aL) "Authorized representative" means a health care agent, as defined under s. 155.01 (4), acting in accordance with a power of attorney for health care that is in effect under s. 155.05 (2), or a person named by the court under ch. 48 or 54 or ch. 880, 2003 stats., having the duty and authority of guardianship.

SECTION 2. 252.15 (1) (am) of the statutes is amended to read:

252.15 (1) (am) "Health care professional" means a physician or physician assistant who is licensed under ch. 448 or a registered nurse or licensed practical nurse who is licensed under ch. 441.

History: 1985 a. 29, 73, 120; 1987 a. 70 ss. 13 to 27, 36; 1987 a. 403 ss. 136, 256; 1989 a. 200; 1989 a. 201 ss. 11 to 25, 36; 1989 a. 298, 359; 1991 a. 269; 1993 a. 16 s. 2567; 1993 a. 27 ss. 332, 334, 337, 340, 342; Stats. 1993 s. 252.15; 1993 a. 32, 183, 190, 252, 395, 491; 1995 a. 27 ss. 6323, 9116 (5), 9126 (19); 1995 a. 77, 275; 1997 a. 54, 80, 156, 188; 1999 a. 9, 32, 79, 151, 162, 188; 2001 a. 38, 59, 69, 74, 103, 105; 2003 a. 271; 2005 a. 155, 187, 266, 344, 387; 2007 a. 97, 106, 130; 2009 a. 28.

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Ins 12-6:

SECTION 3. 252.15 (1) (fm) of the statutes is amended to read:

252.15 (1) (fm) "Universal Standard precautions" means measures that a health care provider, an employee of a health care provider or other individual takes in accordance with recommendations of the federal centers for disease control for the health care provider, employee or other individual for prevention of HIV transmission in health-care settings.

History: 1985 a. 29, 73, 120; 1987 a. 70 ss. 13 to 27, 36; 1987 a. 403 ss. 136, 256; 1989 a. 200; 1989 a. 201 ss. 11 to 25, 36; 1989 a. 298, 359; 1991 a. 269; 1993 a. 16 s. 2567; 1993 a. 27 ss. 332, 334, 337, 340, 342; Stats. 1993 s. 252.15; 1993 a. 32, 183, 190, 252, 395, 491; 1995 a. 27 ss. 6323, 9116 (5), 9126 (19); 1995 a. 77, 275; 1997 a. 54, 80, 156, 188; 1999 a. 9, 32, 79, 151, 162, 188; 2001 a. 38, 59, 69, 74, 103, 105; 2003 a. 271; 2005 a. 155, 187, 266, 344, 387; 2007 a. 97, 106, 130; 2009 a. 28.

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Ins 16-13:

252.15 (5g) (b) ~~The affected person uses universal~~ If the contact occurs as provided under par. (a) 1. to 5., the entity that employs or contracts with the person to provide the services described under par. (a) 1. to 5. requires, as a general policy, that standard ✓ ~~precautions, if any, against significant exposure, and was using universal precautions at the time that he or she was significantly exposed be taken during provision of the services, except in those emergency circumstances in which the time necessary for use of the universal~~ standard ✓ ~~precautions would endanger the life of the individual.~~ ✓

History: 1985 a. 29, 73, 120; 1987 a. 70 ss. 13 to 27, 36; 1987 a. 403 ss. 136, 256; 1989 a. 200; 1989 a. 201 ss. 11 to 25, 36; 1989 a. 298, 359; 1991 a. 269; 1993 a. 16 s. 2567; 1993 a. 27 ss. 332, 334, 337, 340, 342; Stats. 1993 s. 252.15; 1993 a. 32, 183, 190, 252, 395, 491; 1995 a. 27 ss. 6323, 9116 (5), 9126 (19); 1995 a. 77, 275; 1997 a. 54, 80, 156, 188; 1999 a. 9, 32, 79, 151, 162, 188; 2001 a. 38, 59, 69, 74, 103, 105; 2003 a. 271; 2005 a. 155, 187, 266, 344, 387; 2007 a. 97, 106, 130; 2009 a. 28.

Ins 18-16:

2. That the HIV test results may be disclosed to no one, including that individual, without his or her consent, except to the person who is certified to have been significantly exposed; that, and the person's physician, physician assistant, or nurse. ✓

Ins 20-19:

252.15 (3m) (f) The test results of an HIV test of ^{an} individual that is performed under ~~subd. 7,~~ sub. (5g) ✓ or (5j) ✓ may be disclosed only to the individual, if he or she so consents, to anyone the following: ✓

2. Anyone authorized by the individual and to the affected subject of the test. ✓

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Ins 21-4:

SECTION 4. 252.15 (2) (am) 1. and 2. of the statutes ~~are~~^{is} repealed.

Ins 24-18:

SECTION 5. 252.15 (2m) (c) of the statutes is created to read:

252.15 (2m) (c) If the subject of an HIV test is a minor who is 14 years of age or older, a health care provider, blood bank, blood center, or plasma center shall provide the notifications and information required under par. (a) 1. to 3. to the minor or his or her authorized representative and only the minor or his or authorized representative may give the consent or failure to decline an HIV test that is required under par. (a).

SECTION 6. 252.15 (2r) of the statutes is created to read:

252.15 (2r) PROHIBITION AGAINST CONDITIONING HIV TESTING ON DISCLOSURE. A health care provider may not require a person to authorize disclosure of HIV test results as a condition of administering an HIV test to the person.

Ins 25-10:

SECTION 7. 252.15 (3m) (c) of the statutes is created to read:

252.15 (3m) (c) If the subject of an HIV test is a minor who is 14 years of age or older, only the minor or his or her authorized representative may exercise the test subject's authority to disclose HIV test results under par. (a) or to authorize disclosure of HIV test results under par. (b).

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Ins 27-4:

SECTION 8. 252.15 [^](2m)^g(f) 1. of the statutes is created to read:

252.15 (2m) (f) 1. The subject of the test. ✓

(3m)
⊖

Ins 29-19:

SECTION 9. 252.15 (5) (a) 6. of the statutes is renumbered 252.15 (3m) (d) 6. and amended to read:

252.15 (3m) (d) 6. To the state epidemiologist or his or her designee, or to a local health officer ✓ or his or her designees, for the purpose of providing epidemiologic surveillance or investigation or control of communicable disease. ✓

History: 1985 a. 29, 73, 120; 1987 a. 70 ss. 13 to 27, 36; 1987 a. 403 ss. 136, 256; 1989 a. 200; 1989 a. 201 ss. 11 to 25, 36; 1989 a. 298, 359; 1991 a. 269; 1993 a. 16 s. 2567; 1993 a. 27 ss. 332, 334, 337, 340, 342; Stats. 1993 s. 252.15; 1993 a. 32, 183, 190, 252, 395, 491; 1995 a. 27 ss. 6323, 9116 (5), 9126 (19); 1995 a. 77, 275; 1997 a. 54, 80, 156, 188; 1999 a. 9, 32, 79, 151, 162, 188; 2001 a. 38, 59, 69, 74, 103, 105; 2003 a. 271; 2005 a. 155, 187, 266, 344, 387; 2007 a. 97, 106, 130; 2009 a. 28.

Ins 34-20:

SECTION 10. 252.15 (5g) (g) 3. of the statutes is created to read:

252.15 (5g) (g) 3. That, except as provided in subd. 2., the HIV test may not be disclosed to any person. ✓

Ins 34-23:

SECTION 11. 252.15 (5m) (title) of the statutes is amended to read:

252.15 (5m) (title) AUTOPSIES; HIV TESTING OF CERTAIN CORPSES. ✓

History: 1985 a. 29, 73, 120; 1987 a. 70 ss. 13 to 27, 36; 1987 a. 403 ss. 136, 256; 1989 a. 200; 1989 a. 201 ss. 11 to 25, 36; 1989 a. 298, 359; 1991 a. 269; 1993 a. 16 s. 2567; 1993 a. 27 ss. 332, 334, 337, 340, 342; Stats. 1993 s. 252.15; 1993 a. 32, 183, 190, 252, 395, 491; 1995 a. 27 ss. 6323, 9116 (5), 9126 (19); 1995 a. 77, 275; 1997 a. 54, 80, 156, 188; 1999 a. 9, 32, 79, 151, 162, 188; 2001 a. 38, 59, 69, 74, 103, 105; 2003 a. 271; 2005 a. 155, 187, 266, 344, 387; 2007 a. 97, 106, 130; 2009 a. 28.

1 **SECTION 12.** 252.15 (5m) (intro.) of the statutes is renumbered 252.15 (5m) (d)
2 (intro) and amended to read:

3 252.15 (**5m**) (d) (intro.) Notwithstanding s. 157.05, a corpse may be subjected
4 to ~~a~~[↓] an HIV test for the presence of HIV, antigen or nonantigenic products of HIV or
5 ~~an antibody to HIV~~ and the test results disclosed to the a person who has been
6 significantly exposed under any of contact that constitutes a significant exposure ✓
7 with body fluid of the corpse or an individual who subsequently dies, if all of the
8 following conditions apply: ✓

History: 1985 a. 29, 73, 120; 1987 a. 70 ss. 13 to 27, 36; 1987 a. 403 ss. 136, 256; 1989 a. 200; 1989 a. 201 ss. 11 to 25, 36; 1989 a. 298, 359; 1991 a. 269; 1993 a. 16 s. 2567; 1993 a. 27 ss. 332, 334, 337, 340, 342; Stats. 1993 s. 252.15; 1993 a. 32, 183, 190, 252, 395, 491; 1995 a. 27 ss. 6323, 9116 (5), 9126 (19); 1995 a. 77, 275; 1997 a. 54, 80, 156, 188; 1999 a. 9, 32, 79, 151, 162, 188; 2001 a. 38, 59, 69, 74, 103, 105; 2003 a. 271; 2005 a. 155, 187, 266, 344, 387; 2007 a. 97, 106, 130; 2009 a. 28.

9 **SECTION 13.** 252.15 (5m) (d) 1. (intro.) of the statutes is created to read:
10 252.15 (**5m**) (d) 1. The contact occurs under any of the following circumstances: ✓

11 **SECTION 14.** 252.15 (5m) (a) of the statutes is renumbered 252.15 (5m) (d) 1.
12 a. and amended to read:

13 252.15 (**5m**) (d) 1. a. ~~If a~~[↓] While the person, including a person exempted from
14 civil liability under the conditions specified under s. 895.48, or 895.4802, or 895.4803,
15 who [↓] (2) renders to the victim of an emergency or accident emergency care during the
16 course of which the emergency caregiver is significantly exposed to the an emergency
17 or accident victim and the emergency or accident victim subsequently dies prior to
18 testing for the presence of performance of an HIV, antigen or nonantigenic products
19 of HIV, or an antibody to HIV; if a physician or advanced practice nurse prescriber,
20 based on information provided to the physician or advanced practice nurse
21 prescriber, determines and certifies in writing that the emergency caregiver has
22 been significantly exposed; and if the certification accompanies the request for
23 testing and disclosure. Testing of a corpse under this paragraph shall be ordered by

Should be out of statute (marked)

1 the coroner, medical examiner, or physician who certifies the victim's cause of death
2 under s. ~~69.18 (2) (b), (c) or (d)~~ test on the victim.✓

History: 1985 a. 29, 73, 120; 1987 a. 70 ss. 13 to 27, 36; 1987 a. 403 ss. 136, 256; 1989 a. 200; 1989 a. 201 ss. 11 to 25, 36; 1989 a. 298, 359; 1991 a. 269; 1993 a. 16 s. 2567; 1993 a. 27 ss. 332, 334, 337, 340, 342; Stats. 1993 s. 252.15; 1993 a. 32, 183, 190, 252, 395, 491; 1995 a. 27 ss. 6323, 9116 (5), 9126 (19); 1995 a. 77, 275; 1997 a. 54, 80, 156, 188; 1999 a. 9, 32, 79, 151, 162, 188; 2001 a. 38, 59, 69, 74, 103, 105; 2003 a. 271; 2005 a. 155, 187, 266, 344, 387; 2007 a. 97, 106, 130; 2009 a. 28.

3 **SECTION 15.** 252.15 (5m) (b) of the statutes is renumbered 252.15 (5m) (d) 1.

4 b. and amended to read:

5 252.15 (5m) (d) 1. b. If The person is a funeral director, coroner, medical
6 examiner, or appointed assistant to a coroner or medical examiner who and the
7 contact occurs while the person prepares the corpse of a decedent for burial or other
8 disposition or ~~a~~ ^{↓ ↓} while the person who performs an autopsy or assists in performing
9 an autopsy is significantly exposed to on the corpse; if a physician or advanced
10 practice nurse prescriber, based on information provided to the physician or
11 advanced practice nurse prescriber, determines and certifies in writing that the
12 funeral director, coroner, medical examiner, or appointed assistant has been
13 significantly exposed; and if the certification accompanies the request for testing and
14 disclosure. ~~Testing of a corpse under this paragraph shall be ordered by the~~
15 ~~attending physician or advanced practice nurse prescriber of the funeral director,~~
16 coroner, medical examiner, or appointed assistant who is so exposed.✓

History: 1985 a. 29, 73, 120; 1987 a. 70 ss. 13 to 27, 36; 1987 a. 403 ss. 136, 256; 1989 a. 200; 1989 a. 201 ss. 11 to 25, 36; 1989 a. 298, 359; 1991 a. 269; 1993 a. 16 s. 2567; 1993 a. 27 ss. 332, 334, 337, 340, 342; Stats. 1993 s. 252.15; 1993 a. 32, 183, 190, 252, 395, 491; 1995 a. 27 ss. 6323, 9116 (5), 9126 (19); 1995 a. 77, 275; 1997 a. 54, 80, 156, 188; 1999 a. 9, 32, 79, 151, 162, 188; 2001 a. 38, 59, 69, 74, 103, 105; 2003 a. 271; 2005 a. 155, 187, 266, 344, 387; 2007 a. 97, 106, 130; 2009 a. 28.

17 **SECTION 16.** 252.15 (5m) (c) of the statutes is renumbered 252.15 (5m) (d) 1. c.

18 and amended to read:

19 252.15 (5m) (d) 1. c. If The person is a health care provider or an agent or
20 employee of a health care provider is significantly exposed to and the person has
21 contact with body fluid of the corpse, or to of a patient who dies subsequent to the
22 exposure contact and prior to testing for the presence performance of an HIV, antigen
23 or nonantigenic products of HIV, or an antibody to HIV; if a physician or advanced

1 ~~practice nurse prescriber who is not the health care provider, based on information~~
 2 ~~provided to the physician or advanced practice nurse prescriber, determines and~~
 3 ~~certifies in writing that the health care provider, agent or employee has been~~
 4 ~~significantly exposed; and if the certification accompanies the request for testing and~~
 5 ~~disclosure. Testing of a corpse under this paragraph shall be ordered by the~~
 6 ~~physician or advanced practice nurse prescriber who certifies that the significant~~
 7 ~~exposure has occurred~~ test on the patient.✓

History: 1985 a. 29, 73, 120; 1987 a. 70 ss. 13 to 27, 36; 1987 a. 403 ss. 136, 256; 1989 a. 200; 1989 a. 201 ss. 11 to 25, 36; 1989 a. 298, 359; 1991 a. 269; 1993 a. 16 s. 2567; 1993 a. 27 ss. 332, 334, 337, 340, 342; Stats. 1993 s. 252.15; 1993 a. 32, 183, 190, 252, 395, 491; 1995 a. 27 ss. 6323, 9116 (5), 9126 (19); 1995 a. 77, 275; 1997 a. 54, 80, 156, 188; 1999 a. 9, 32, 79, 151, 162, 188; 2001 a. 38, 59, 69, 74, 103, 105; 2003 a. 271; 2005 a. 155, 187, 266, 344, 387; 2007 a. 97, 106, 130; 2009 a. 28.

8 **SECTION 17.** 252.15 (5m) (d) 2. and 3. of the statutes are created to read:

9 252.15 (5m) (d) 2. A physician, physician assistant, or advanced practice nurse
 10 prescriber, based on information provided to the physician, physician assistant, or
 11 advanced practice nurse prescriber, determines and certifies in writing that the
 12 contact under subd. 1.✓ constitutes a significant exposure. A health care provider who
 13 as a contact under par. (d) 1. c.✓ may not make the certification under this subdivision✓
 14 for himself or herself.✓

15 3. The certification under subd. 2.✓ accompanies the request for performance of
 16 an HIV test and disclosure.✓

17 **SECTION 18.** 252.15 (5m) (e) of the statutes is created to read:

18 252.15 (5m) (e) If the conditions under par. (d)✓ are satisfied, the following
 19 person shall order an HIV test of the corpse:

20 (a)✓ If the contact occurs as provided under par. (d) 1. a.✓, the coroner, medical
 21 examiner, or physician who certifies the victim's cause of death under s. 69.18 (2) (b),
 22 (c), or (d).✓

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3246/P2dn
RLR:nwn:ph

December 17, 2009

Representative Shilling:

I changed some references from “person” or “individual” to “test subject.” However, I did not change references to “person” in the consent provisions for testing, proposed s. 252.15 (2m), because before the test is performed there is no “test subject,” just a “potential test subject.” It is cumbersome to continually refer to “the potential test subject or the potential test subject’s authorized representative.” Also I did not change references to “person” and “individual” in the significant exposure provisions, proposed s. 252.15 (5g) and (5m). In the significant exposure provisions, both the “person” who has the significant exposure and requests the testing and the “individual” for whom testing may be required have to be tested, so both are test subjects.

I did not combine proposed ss. 252.15 (3m) (c) 11. b. and 252.15 (5m) (b) as I previously suggested. I realized that, although both provisions deal with disclosing HIV test results of a corpse to a coroner or medical examiner, sub. (3m) deals just with disclosing results of a test that had been previously performed, while (5m) provides for ordering a test as well as disclosure of the results.

DHS asked whether s. 252.15 (5m) (b) and (c) could be combined. Instead, I reorganized all of sub. (5m) to eliminate repetition of the requirement for certification of significant exposure. Let me know if you want to eliminate this change.

There is no need to further specify the references to nurse in s. 252.15 because “nurse” is defined in s. 990.01 (23q) to include a registered nurse or licensed practical nurse.

Robin Ryan
Legislative Attorney
Phone: (608) 261-6927
E-mail: robin.ryan@legis.wisconsin.gov

Ryan, Robin

From: Palese, Anthony
Sent: Thursday, December 17, 2009 10:21 AM
To: Ryan, Robin
Subject: HIV Bill Changes

Attachments: revised opt-out language.doc

Hi Robin,

We had some changes to the HIV bill I wanted to run past you. One is language that would define AIDS Service Orgs., and the other would change the informed consent provision to clarify that if a patient remains silent that that is not consent for testing. The provider would have to verify that they understand the information that they were provided in order for the test to go forward.

I'll be up in the Joint Finance meeting this morning, but will be back in the office later this afternoon.

Thanks,

Tony Palese
Legislative Aide
Office of Rep. Jennifer Shilling

State Capitol, Room 320 East
PO Box 8953, Madison, WI 53708
(608) 266-5780 voice
(888) 534-0095 toll free
(608) 282-3695 fax



revised opt-out
language.doc (...)

12/17/09
From Tony

252.15 Restrictions on use of an HIV test. (1) Definitions. In this section: “AIDS Service Organization” means a public or private nonprofit agency designated by the Department of Health Services to directly provide or arrange for provision of a comprehensive array of HIV prevention, health and social services for individuals with HIV disease living in a Department designated service area.

252.15 (2m) (title) CONSENT FOR HIV TESTING.

252.15 (2m) (a) Except as provided in par. (b), a health care provider, blood bank, blood center, or plasma center may not subject a person to an HIV test unless all of the following conditions are satisfied:

1. The health care provider, blood bank, blood center, or plasma center notifies the person or the person’s health care agent that the person will be subjected to an HIV test unless he or she declines the test, and the health care provider, blood bank, blood center, or plasma center verifies that the person or health care agent understands that an HIV test will be performed on the person.
2. The health care provider, blood bank, blood center, or plasma center offers the person or the person’s health care agent a brief written or verbal explanation of HIV infection, HIV test results, HIV reporting requirements, and treatment options and services through AIDS service organizations and other community based organizations that are available to a person who has a positive HIV test result.
3. The health care provider, blood bank, blood center, or plasma center notifies the person or the person’s health care agent that he or she may decline the HIV test, and that this refusal will not be used as a basis by an institution to deny services or treatment.
4. The health care provider, blood bank, blood center, or plasma center provides the person or the person’s health care agent an opportunity to ask questions and to decline the test.
5. After receiving the notifications and information under subds. 1. to 3. and having an opportunity to ask questions and decline the test under subd. 4., the health care provider, blood bank, blood center, or plasma center verifies that the decision to test by the person or person’s health care agent is voluntary.

Ryan, Robin

From: Ryan, Robin
Sent: Tuesday, December 22, 2009 1:19 PM
To: Palese, Anthony
Subject: HIV testing bill

Tony,

I. Consent

Last week we discussed changes to the consent provision as though we were keeping opt-out and just clarifying that silence means denial. But the requested change really results in an opt-in system. If a person does not agree to an HIV test (i.e. the person declines or does not respond), a provider cannot perform the test. If this is the result you want, I suggest the following language.

252.15 (2m) (a) Except as provided in par. (b), and subject to par. (c), a health care provider, blood bank, blood center, or plasma center may not subject a person to an HIV test unless all of the following conditions are satisfied:

1. The health care provider, blood bank, blood center, or plasma center provides the person or the person's authorized representative a brief oral or written explanation of HIV infection, HIV test results, requirements under subs. (7) (b) and (7m) for reporting HIV test results treatment options and services that are available to a person who has a positive HIV test result and information regarding organizations that provide support services to persons who have a positive HIV test result.
2. If a health care provider offers to perform an HIV test, the health care provider notifies the person who is to be subjected to the HIV test or the person's authorized representative that health care services will not be withheld from the person if the person or authorized representative declines the test.
3. The health care provider, blood bank, blood center, or plasma center provides the person or the person's authorized representative an opportunity to ask questions.
4. After receiving the notifications and information under subd. 1. and, if applicable, subd. 2. and having an opportunity to ask questions under subd. 3., the person or the person's authorized representative consents to having an HIV test performed on the person.

II. AIDS service organization (ASO)

Do you want to go with what is in the draft on p. 42, line 3 of the /P2, or do you want to flesh out more what it means for DHS to designate an organization as an ASO?

Thanks
 Robin

*call to Tony 12/23
 wants opt-out Go w/ DHS language,
 but drop language in 5. about
 verifying decision.
 AIDS Resource Center doesn't like "failure to decline"*

252.15 Restrictions on use of an HIV test. (1) Definitions. In this section: "AIDS Service Organization" means a public or private nonprofit agency designated by the Department of Health Services to directly provide or arrange for provision of a comprehensive array of HIV prevention, health and social services for individuals with HIV disease living in a Department designated service area.

252.15 (2m) (title) CONSENT FOR HIV TESTING
SECTION 64. 252.15 (2m) (a) of the statutes is created to read:

252.15 (2m) (a) Except as provided in par. (b), and subject to par. (c), a health care provider, blood bank, blood center, or plasma center may not subject a person to an HIV test unless all of the following conditions are satisfied:

1. The health care provider, blood bank, blood center, or plasma center notifies the person or the person's authorized representative that the person will be subjected to an HIV test unless he or she declines the test, and the health care provider, blood bank, blood center, or plasma center verifies that the person or the person's authorized representative understands that an HIV test will be performed on the person.

Deleted: ensures

2. The health care provider notifies the person or the person's authorized representative that he or she may decline the HIV test and that this refusal will not be used by the health care provider, blood bank, blood center, or plasma center as a basis to deny services or treatment.

Deleted: If a health care provider offers to perform an HIV test, t

Deleted: who is to be subjected to the HIV test

3. The health care provider, blood bank, blood center, or plasma center ^{offers} ~~provides~~ the person or the person's authorized representative a brief oral or written explanation of HIV infection, HIV test results, requirements under subs. (7) (b) and (7m) for reporting HIV test results, and treatment options and services through AIDS service organizations and other community based organizations that are available to a person who has a positive HIV test result.

Deleted: health care services will not be withheld from the person if the person or authorized representative declines the test

4. The health care provider, blood bank, blood center, or plasma center provides the person or the person's authorized representative an opportunity to ask questions and to decline the test.

Deleted: treatment options and services that are available to a person who has a positive HIV test result and information regarding organizations that provide support services to persons who have a positive HIV test result

5. After receiving the notifications and information under subs. 1. to 3. and having an opportunity to ask questions and decline the test under subd. 4., the health care provider, blood bank, blood center, or plasma center verifies that ~~the decision by the person or the person's authorized representative~~ is not coerced or involuntary.

Deleted: person or the person's authorized representative consents to or does not decline having an HIV test performed on the person, and the

Deleted: ensures

Deleted: consent or failure to decline

Deleted: voluntary

want term ASD in statute
Require DHS to designate ASDs

Ryan, Robin

From: Ryan, Robin
Sent: Wednesday, January 06, 2010 11:20 AM
To: Palese, Anthony
Subject: HIV

Tony,

A. Here is proposed language form the opt-out consent provision with explanatory notes for my changes

Section 3. 252.15 (2m) (a) of the statutes is created to read:

252.15 (2m) (a) Except as provided in par. (b), and subject to par. (c), a health care provider, blood bank, blood center, or plasma center may not subject a person to an HIV test unless all of the following conditions are satisfied:

1. The health care provider, blood bank, blood center, or plasma center notifies the person or the person's authorized representative that the person will be subjected to an HIV test unless he or she declines the test.

****Note: I moved the requirement that the tester verify that the person/representative understands that a test will be performed to subd. 5. with the other required verifications.

2. The health care provider, blood bank, blood center, or plasma center offers the person or the person's authorized representative a brief oral or written explanation of HIV infection, HIV test results, requirements under subs. (7) (b) and (7m) for reporting HIV test results, treatment options for a person who has a positive HIV test result, and services provided by AIDS services organizations that are available to a person who has a positive HIV test result.

3. If a health care provider offers to perform an HIV test, the health care provider notifies the person or the person's authorized representative that if the person or the person's authorized representative declines to have an HIV test performed, the health care provider may not use the fact that the person declined an HIV test as a basis for denying services or treatment, other than an HIV test, to the person.

****Note: I included "If a health care provider offers to perform an HIV test" because the intro. to paragraph (a) refers to all types of providers and this subdivision should only apply to health care providers. I took out all references to blood bank, blood center, or plasma center, because they are going to deny services if a person declines an HIV test. See 4. on notice about right to decline test. Finally, this subdivision only requires notice that denial of an HIV can't be used to deny services, it doesn't clearly prohibit using a denial of HIV services to deny health care services. If you want this to be clear, I would add a provision in 252.14 prohibiting health care providers from denying services on basis of denial of HIV test.

4. The health care provider, blood bank, blood center, or plasma center provides the person or the person's authorized representative an opportunity to ask questions, notifies the person or the person's authorized representative that the person or person's authorized representative may decline the HIV test, and gives the person or the person's authorized representative and opportunity to decline the test.

****Note: It seems implicit in the other requirements that the tester has to notify the person/representative that he or she may decline the test, but if you want to spell it out it seems to fit better here or in subd. 1. rather than in subd. 3. May I delete notice about right to decline, or do you want to keep it?

5. After complying with applicable conditions under subs. 1. to 4., the health care provider, blood bank, blood center, or plasma center verifies that the person or or the person's authorized representative understands that an HIV test will be performed on the person and that the decision of the person or the person's authorized representative regarding whether to have an HIV test performed is not coerced or involuntary.

****Note: Since the tester, rather than the potential test subject is now the actor under 5., I changed the language.

B. I looked at references in the bill to consenting or not declining an HIV test. The provisions on p. 17, line 3, and p. 25, lines 4 and 12. are ostensibly exceptions to the opt-out consent provisions. But in effect they specify additional instances in which a person may serve as an authorized representative. So I will just add these scenarios to the definition of authorized representative. I will modify the reference on page 20. I will keep the requirement for record keeping on p. 28 that the tester has to indicate whether the person consented to or declined a test.

C. I added the ASO definition.

D. I am going to delete the first sentence of s. 252.14 (3) because it duplicates the new requirement under s. 252.15 (2m) (a), that a health care provider counsel a person when the provider tests the person for AIDS. I think it would be problematic to health care providers to have redundant, yet slightly different requirements.

I am going to move forward on these changes so we don't get behind schedule. You can always redraft.

Robin

Tony 1/6/10

① Put notice re right to decline in subd 1.

② Yes - add lang in discrimination section about health care providers not conditioning services on HIV test



State of Wisconsin
2009 - 2010 LEGISLATURE

LRB-3246/P2

RLR:nwn:ph

In 1/7/10
Wanted 1/8/10

RMR

~~PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION~~

Please return to
NWN when done.

SA ✓

Regen Cat.

1 **AN ACT** *to repeal* 49.686 (1) (g), 252.15 (1) (ab), 252.15 (1) (d), 252.15 (1) (e),
2 252.15 (2) (title), 252.15 (2) (a) (intro.), 252.15 (2) (am), 252.15 (2) (b), 252.15 (2)
3 (bm), 252.15 (3), 252.15 (4) (a), 252.15 (5) (a) 11. and 252.15 (5) (a) 18.; **to**
4 **renumber** 252.15 (5) (a) 3., 252.15 (5) (a) 5. and 252.15 (5) (a) 8. and 9.; **to**
5 **renumber and amend** 252.15 (2) (a) 1., 252.15 (2) (a) 1g., 252.15 (2) (a) 2.,
6 252.15 (2) (a) 3., 252.15 (2) (a) 6., 252.15 (2) (a) 7. a., 252.15 (2) (a) 7. ai., 252.15
7 (2) (a) 7. ak., 252.15 (2) (a) 7. am., 252.15 (2) (a) 7. ap., 252.15 (2) (a) 7. ar., 252.15
8 (2) (a) 7. at., 252.15 (2) (a) 7. av., 252.15 (2) (a) 7. b., 252.15 (2) (a) 7. c., 252.15
9 (2) (a) 7. d., 252.15 (2) (a) 7m., 252.15 (5) (title), 252.15 (5) (a) (intro.), 252.15 (5)
10 (a) 1., 252.15 (5) (a) 2., 252.15 (5) (a) 4., 252.15 (5) (a) 6., 252.15 (5) (a) 7., 252.15
11 (5) (a) 10., 252.15 (5) (a) 12., 252.15 (5) (a) 13., 252.15 (5) (a) 14., 252.15 (5) (a)
12 15., 252.15 (5) (a) 17., 252.15 (5) (a) 19., 252.15 (5) (a) 20., 252.15 (5) (b), 252.15
13 (5m) (intro.), 252.15 (5m) (a), 252.15 (5m) (b) and 252.15 (5m) (c); **to**
14 **consolidate, renumber and amend** 252.15 (2) (a) 4. (intro.), a. and b.; **to**
15 **amend** 48.371 (1) (a), 59.69 (15) (im), 60.63 (10m), 62.23 (7) (i) 9m., 101.02 (19)

1 (a), 103.15 (title), 103.15 (2) (a), 103.15 (2) (b), 103.15 (3), 118.125 (2m) (b),
2 146.81 (4), 149.12 (1) (intro.), 252.01 (8), 252.11 (5m), 252.11 (7), 252.12 (2) (a)
3 3. d., 252.12 (2) (a) 5., 252.12 (2) (a) 7., 252.13 (title), 252.13 (1m), 252.13 (1r)
4 (intro.), 252.13 (3), 252.13 (4), 252.13 (5), 252.14 (2) (intro.), 252.14 (3), 252.14
5 (4), 252.15 (title), 252.15 (1) (am), 252.15 (1) (em) (intro.), 252.15 (1) (fm), 252.15
6 (4) (intro.), 252.15 (4) (c), 252.15 (5m) (title), 252.15 (6), 252.15 (7) (title), 252.15
7 (7) (a), 252.15 (7) (b) (intro.), 252.15 (7) (b) 4., 252.15 (7) (b) 5., 252.15 (7) (c) 1.,
8 252.15 (7) (c) 2., 252.15 (7m), 252.15 (8), 252.15 (9), 256.15 (12) (a), 440.20 (4),
9 631.90 (1), 631.90 (2) (a), 631.90 (2) (b), 631.90 (2) (c), 631.90 (3) (a), 631.90 (3)
10 (b), 901.05 (2) (intro.), 938.296 (1) (d), 938.296 (2) (intro.), 938.296 (2) (b),
11 938.296 (4) (intro.), 938.296 (5) (intro.), 938.346 (1) (e), 938.371 (1) (a), 968.38
12 (1) (d), 968.38 (2) (intro.), 968.38 (2) (a), 968.38 (4) (intro.), 968.38 (5) (intro.),
13 973.017 (4) (b) 1. and 973.017 (4) (b) 2.; **to repeal and recreate** 252.15 (4) (b);
14 and **to create** 103.15 (1) (bm), 252.01 (2m), 252.133 (title), 252.15 (1) (ac),
15 252.15 (2m) (title), 252.15 (2m) (a), 252.15 (2m) (b) (intro.), 252.15 (2m) (b) 4.,
16 252.15 (2m) (b) 5., 252.15 (2m) (b) 7., 252.15 (2m) (b) 8., 252.15 (2m) (c), 252.15
17 (2r), 252.15 (3m) (b) 1. to 8., 252.15 (3m) (c), 252.15 (3m) (c) 15. and 16., 252.15
18 (3m) (d) (intro.), 252.15 (3m) (d), 252.15 (3m) (e), 252.15 (3m) (f) 1., 252.15 (3m)
19 (g), 252.15 (4) (bm), 252.15 (5g) (intro.) and (a), 252.15 (5g) (a) 6., 252.15 (5g) (g)
20 3., 252.15 (5j) (title), 252.15 (5m) (d) 1. (intro.), 252.15 (5m) (d) 2. and 3., 252.15
21 (5m) (e), 252.15 (7) (b) 5m., 252.15 (7r), 938.296 (1) (bm), 968.38 (1) (bc) and

1 973.017 (4) (a) 1m. of the statutes; **relating to:** HIV testing,[✓] disclosure of HIV
2 test results,[✓] and providing penalties.[✓]

Analysis by the Legislative Reference Bureau

Under current law, a person generally may not be subjected to a test for human immunodeficiency virus (HIV) unless he or she consents to the test. The results of an HIV test are generally confidential and may not be disclosed unless the test subject authorizes disclosure. Current law specifies certain circumstances under which another person may provide consent for HIV testing of an individual and disclosure of HIV test results. For example, if a person has designated a health care agent and has been found to be incapacitated, the person's health care agent may provide consent for HIV testing and disclosure of the test results. In addition, a parent may consent to HIV testing and disclosure of test results on behalf of a minor who is less than 14 years of age.

Current law provides several exceptions to the consent requirement for HIV testing. The exception for cases of so-called "significant exposure" provides that if a person working in certain occupations such as health care, corrections, or education, is exposed to the body fluid of another individual under circumstances that may allow for transmission of HIV, and a health care provider certifies that a significant exposure occurred, the person may have the individual tested for HIV without the individual's consent. If the individual is tested, the person who requested the test may obtain the results of the test. The individual may be informed of his or her own test results only if he or she consents to being informed.

Current law provides a number of additional exceptions to confidentiality of HIV test results. For example, under certain circumstances HIV test results may be disclosed without the test subject's consent to a health care provider, a jailer or corrections employee, a foster parent, and a victim of sexual assault, among others.

Current law specifies that if consent is required for HIV testing, it must be provided in writing on a form that includes an explanation regarding permitted disclosure of HIV test results. Authorization for disclosure of test results must also be provided in writing.

Current law also provides that a health care provider, blood bank, or blood or plasma center that performs an HIV test, must report positive HIV test results to the state epidemiologist. Current law allows a health care provider who has a record of an individual's positive HIV test results to report to the state epidemiologist the name of any person who had significant exposure to the test subject.

Current law provides a criminal penalty for intentionally violating prohibitions against disclosing HIV test results without the test subject's consent. Current law also allows civil damages for violating the prohibitions against disclosure and for violating consent requirements for HIV testing.

This bill changes the consent provisions for HIV testing. Under the bill, a health care provider, blood bank, blood center, or plasma center may perform an HIV test on a person if it first notifies the person that the test will be performed unless

the person declines the test; ensures that the person understands that an HIV test will be performed; provides the person certain information about HIV, HIV treatment options, organizations that provide services to persons with HIV, and mandatory disclosure of test results; provides the person an opportunity to ask questions; and ensures that the person's consent to the test or failure to decline the test is voluntary. In addition, a health care provider must notify a potential test subject that health care services will not be withheld from the potential subject if he or she declines the test. Under the bill, the person's consent or failure to decline an HIV test may be oral or written, and the health care provider, blood bank, or blood or plasma center may provide the required information and notices for potential test subjects either orally or in writing. The bill requires the Department of Health Services to provide health care providers, blood banks, and blood or plasma centers materials that include the information and notices that must be provided to potential test subjects. The bill provides that a health care provider may not require a person to authorize disclosure of HIV test results as a condition of administering an HIV test to the person.

Other changes in the bill include the following:

1. The bill specifies elements that must be included in an authorization to disclose HIV test results, including the name and signature of the person who authorizes the disclosure, specification of what information may be disclosed, the name of the person to whom the information may be disclosed, and the period in which disclosure is permitted.

2. The bill eliminates the condition that an individual who is tested for HIV in a case of significant exposure consent to being informed of his or her test results before he or she may be notified of the test results.

3. The bill provides that a good samaritan who renders aid to an accident victim and has a significant exposure to body fluid of the victim may cause the victim to be tested for HIV without the victim's consent.

4. The bill provides that a guardian may consent to or decline an HIV test for a ward.

4. 5. The bill specifies that if a minor is at least 14 years of age, the minor, and not his or her parent, has authority to consent to or decline an HIV test and authorize disclosure of his or her HIV test results.

5. 8. The bill provides that a physician assistant has the same authority as a physician and certain nurses to certify that a significant exposure has occurred for purposes of requiring HIV testing without consent, to disclose to the state epidemiologist the name of a person who may have had a significant exposure to a person who has tested positive for HIV, to administer certain court-ordered HIV tests, and to receive certain HIV test results.

6. 7. The bill provides that when a health care provider, blood bank, or blood or plasma center reports a positive HIV test result to the state epidemiologist, the report must include the mode of HIV transmission.

7. 8. The bill increases the criminal fine and civil damages amounts for violating prohibitions against disclosing HIV test results without consent and increases the civil damages amounts for violating consent requirements for HIV testing.

INS B

9. The bill eliminates a state law requirement for HIV testing of sperm and ova that are donated as anatomical gifts. Federal law requires HIV testing of all donated sperm and ova.

10. The bill makes numerous changes that modernize and simplify references to HIV tests and reorganizes provisions relating to HIV testing and disclosure of HIV test results.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 48.371 (1) (a) of the statutes is amended to read:

2 48.371 (1) (a) Results of ~~a~~ an HIV test or a series of tests, as defined in s. 252.01
3 (2m), of the child ~~to determine the presence of HIV, as defined in s. 968.38 (1) (b),~~
4 ~~antigen or nonantigenic products of HIV, or an antibody to HIV,~~ as provided under
5 s. 252.15 (5) ~~(a) 19.~~ (3m) (d) 18, including results included in a court report or
6 permanency plan. At the time that the HIV test results are provided, the agency
7 shall notify the foster parent, treatment foster parent, relative, or operator of the
8 group home or residential care center for children and youth of the confidentiality
9 requirements under s. 252.15 (6).

10 **SECTION 2.** 49.686 (1) (g) of the statutes is repealed.

11 **SECTION 3.** 59.69 (15) (im) of the statutes is amended to read:

12 59.69 (15) (im) The fact that an individual with acquired immunodeficiency
13 syndrome or a positive HIV test ~~for the presence of HIV,~~ as defined in s. 252.01 ~~(1m),~~
14 ~~antigen or nonantigenic products of HIV or an antibody to HIV~~ (2m), resides in a
15 community living arrangement with a capacity for 8 or fewer persons may not be
16 used under par. (i) to assert or prove that the existence of the community living
17 arrangement in the municipality poses a threat to the health, safety or welfare of the
18 residents of the municipality.

19 **SECTION 4.** 60.63 (10m) of the statutes is amended to read:

1 60.63 (10m) The fact that an individual with acquired immunodeficiency
2 syndrome or a positive HIV test ~~for the presence of HIV~~, as defined in s. 252.01 (1m),
3 ~~antigen or nonantigenic products of HIV or an antibody to HIV~~ (2m), resides in a
4 community living arrangement with a capacity for 8 or fewer persons may not be
5 used under sub. (10) to assert or prove that the existence of the community living
6 arrangement in the town poses a threat to the health, safety or welfare of the
7 residents of the town.

8 **SECTION 5.** 62.23 (7) (i) 9m. of the statutes is amended to read:

9 62.23 (7) (i) 9m. The fact that an individual with acquired immunodeficiency
10 syndrome or a positive HIV test ~~for the presence of HIV~~, as defined in s. 252.01 (1m),
11 ~~antigen or nonantigenic products of HIV or an antibody to HIV~~ (2m), resides in a
12 community living arrangement with a capacity for 8 or fewer persons may not be
13 used under subd. 9. to assert or prove that the existence of the community living
14 arrangement in the city poses a threat to the health, safety or welfare of the residents
15 of the city.

16 **SECTION 6.** 101.02 (19) (a) of the statutes is amended to read:

17 101.02 (19) (a) The department shall, after consulting with the department of
18 health services, develop a report form to document ~~significant exposure to contact~~
19 with blood or body fluids that constitutes a significant exposure, for use under s.
20 252.15 (2) (a) 7. ~~ak~~ (5g) (c). The form shall contain the following language for use by
21 a person who may have been ~~significantly exposed~~ had a significant exposure:
22 “REMEMBER — WHEN YOU ARE INFORMED OF AN HIV TEST RESULT BY
23 USING THIS FORM, IT IS A VIOLATION OF THE LAW FOR YOU TO REVEAL
24 TO ANYONE ELSE THE IDENTITY OF THE PERSON WHO IS THE SUBJECT

1 OF THAT TEST RESULT. (PENALTY: POSSIBLE JAIL AND UP TO \$10,000
2 \$50,000 FINE)”.

3 **SECTION 7.** 103.15 (title) of the statutes is amended to read:

4 **103.15 (title) Restrictions on use of ~~a~~ an HIV test for HIV.**

5 **SECTION 8.** 103.15 (1) (bm) of the statutes is created to read:

6 103.15 (1) (bm) “HIV test” has the meaning given in s. 252.01 (2m).

7 **SECTION 9.** 103.15 (2) (a) of the statutes is amended to read:

8 103.15 (2) (a) Solicit or require an HIV test as a condition of employment of any
9 employee or prospective employee ~~a test for the presence of HIV, antigen or~~
10 ~~nonantigenic products of HIV or an antibody to HIV.~~

11 **SECTION 10.** 103.15 (2) (b) of the statutes is amended to read:

12 103.15 (2) (b) Affect the terms, conditions or privileges of employment or
13 terminate the employment of any employee who obtains ~~a~~ an HIV test for the
14 ~~presence of HIV, antigen or nonantigenic products of HIV or an antibody to HIV, as~~
15 defined in s. 252.01 (2m).

16 **SECTION 11.** 103.15 (3) of the statutes is amended to read:

17 103.15 (3) Any agreement by an employer or agent of the employer and an
18 employee or prospective employee offering employment or any pay or benefit to an
19 employee or prospective employee in return for taking ~~a~~ an HIV test for the presence
20 ~~of HIV, antigen or nonantigenic products of HIV or an antibody to HIV~~ is prohibited,
21 except as provided under sub. (2) (intro.).

22 **SECTION 12.** 118.125 (2m) (b) of the statutes is amended to read:

23 118.125 (2m) (b) Any pupil record that concerns the results of ~~a~~ an HIV test
24 ~~for the presence of HIV, antigen or nonantigenic products of HIV or an antibody to~~

1 ~~HIV, as defined in s. 252.01 (2m), shall be treated as provided under s. 252.15. In this~~
2 ~~subsection, "HIV" has the meaning given in s. 252.01 (1m).~~

3 **SECTION 13.** 146.81 (4) of the statutes, as affected by 2009 Wisconsin Act 28,
4 is amended to read:

5 146.81 (4) "Patient health care records" means all records related to the health
6 of a patient prepared by or under the supervision of a health care provider; and all
7 records made by an ambulance service provider, as defined in s. 256.01 (3), an
8 emergency medical technician, as defined in s. 256.01 (5), or a first responder, as
9 defined in s. 256.01 (9), in administering emergency care procedures to and handling
10 and transporting sick, disabled, or injured individuals. "Patient health care records"
11 includes billing statements and invoices for treatment or services provided by a
12 health care provider and includes health summary forms prepared under s. 302.388
13 (2). "Patient health care records" does not include those records subject to s. 51.30,
14 reports collected under s. 69.186, records of tests administered under s. 252.15 (2)
15 ~~(a) 7. (5g) or (5j),~~ 343.305, 938.296 (4) or (5) or 968.38 (4) or (5), records related to sales
16 of pseudoephedrine products, as defined in s. 961.01 (20c), that are maintained by
17 pharmacies under s. 961.235, fetal monitor tracings, as defined under s. 146.817 (1),
18 or a pupil's physical health records maintained by a school under s. 118.125.

19 **SECTION 14.** 149.12 (1) (intro.) of the statutes is amended to read:

20 149.12 (1) (intro.) Except as provided in subs. (1m), (2), and (3), the authority
21 shall certify as eligible a person who is covered by Medicare because he or she is
22 disabled under 42 USC 423, a person who submits evidence that he or she has ~~tested~~
23 ~~positive for the presence of HIV, antigen or nonantigenic products of HIV, or an~~
24 ~~antibody to HIV,~~ a positive, validated HIV test result, as defined in s. 252.01 (8); a
25 person who is an eligible individual; and any person who receives and submits any

1 of the following based wholly or partially on medical underwriting considerations
2 within 9 months prior to making application for coverage by the plan:

3 **SECTION 15.** 252.01 (2m) of the statutes is created to read:

4 252.01 (2m) "HIV test" means a test for the presence of HIV or an antibody to
5 HIV.

6 **SECTION 16.** 252.01 (8) of the statutes is amended to read:

7 252.01 (8) "Validated HIV test result" means a result of ~~a~~ an HIV test ~~for the~~
8 ~~presence of HIV, antigen or nonantigenic products of HIV or an antibody to HIV~~ that
9 meets the validation requirements determined to be necessary by the state
10 epidemiologist.

11 **SECTION 17.** 252.11 (5m) of the statutes is amended to read:

12 252.11 (5m) A health care professional, as defined in s. 968.38 (1) (a), acting
13 under an order of a court under s. 938.296 (4) ~~or (5)~~ or 968.38 (4) ~~or (5)~~ may, without
14 first obtaining informed consent to the testing, subject an individual to a test or a
15 series of tests to ascertain whether that individual is infected with a sexually
16 transmitted disease. No sample used for performance of a test under this subsection
17 may disclose the name of the test subject.

18 **SECTION 18.** 252.11 (7) of the statutes is amended to read:

19 252.11 (7) Reports, examinations and inspections and all records concerning
20 sexually transmitted diseases are confidential and not open to public inspection, and
21 may not be divulged except as may be necessary for the preservation of the public
22 health, in the course of commitment proceedings under sub. (5), or as provided under
23 s. 938.296 (4) ~~or (5)~~ or 968.38 (4) ~~or (5)~~. If a physician or advanced practice nurse
24 prescriber has reported a case of sexually transmitted disease to the department
25 under sub. (4), information regarding the presence of the disease and treatment is

1 not privileged when the patient, physician, or advanced practice nurse prescriber is
2 called upon to testify to the facts before any court of record.

3 **SECTION 19.** 252.12 (2) (a) 3. d. of the statutes is amended to read:

4 252.12 (2) (a) 3. d. Locations for procuring additional information or obtaining
5 HIV testing services.

6 **SECTION 20.** 252.12 (2) (a) 5. of the statutes is amended to read:

7 252.12 (2) (a) 5. The department shall perform HIV tests ~~for the presence of~~
8 HIV and, if appropriate, tests for the presence of related infections and shall conduct
9 behavioral surveys among population groups determined by the department to be
10 highly at risk of becoming infected with or transmitting HIV and related infections.
11 Information obtained shall be used to develop targeted HIV infection and related
12 infection prevention efforts for these groups and to evaluate the state's prevention
13 strategies.

14 **SECTION 21.** 252.12 (2) (a) 7. of the statutes is amended to read:

15 252.12 (2) (a) 7. The department shall distribute funding in each fiscal year to
16 contract with organizations to provide, at alternate testing sites, anonymous or
17 confidential counseling services for HIV ~~and~~, laboratory HIV testing services ~~for the~~
18 presence of HIV, and, if appropriate, laboratory testing services for the presence of
19 related viruses.

20 **SECTION 22.** 252.13 (title) of the statutes is amended to read:

21 **252.13** (title) **Blood HIV tests ~~for HIV~~.**

22 **SECTION 23.** 252.13 (1m) of the statutes is amended to read:

23 252.13 (1m) Except as provided under sub. (3), any blood bank, blood center
24 or plasma center in this state that purchases or receives whole blood, blood plasma,
25 a blood product or a blood derivative shall, prior to its distribution or use and after

JNS
10-2

JNS
10-19

after

in accordance

Conditions

1

complying with informed consent under the requirements of under s. 252.15 (2) (b)

2

(2m) (a), subject that blood, plasma, product or derivative to ~~a~~ an HIV test or series

3

~~of tests that the state epidemiologist finds medically significant and sufficiently~~

4

~~reliable under sub. (1r) (a) to detect the presence of HIV, antigen or nonantigenic~~

5

~~products of HIV or an antibody to HIV. This subsection does not apply to a blood bank~~

6

that purchases or receives whole blood, blood plasma, a blood product or a blood

7

derivative from a blood bank, blood center or plasma center in this state if the whole

8

blood, blood plasma, blood product or blood derivative has previously been subjected

9

to ~~a~~ an HIV test or series of tests that the state epidemiologist finds medically

10

~~significant and sufficiently reliable under sub. (1r) (a) to detect the presence of HIV,~~

11

~~antigen or nonantigenic products of HIV or an antibody to HIV.~~

12

SECTION 24. 252.13 (1r) (intro.) of the statutes is amended to read:

13

252.13 (1r) (intro.) For the purposes of this section, the state epidemiologist

14

shall make separate findings of medical significance and sufficient reliability for ~~a~~

15

an HIV test or a series of HIV tests to ~~detect the presence of HIV, antigen or~~

16

~~nonantigenic products of HIV or an antibody to HIV~~ for each of the following

17

purposes:

18

SECTION 25. 252.13 (3) of the statutes is amended to read:

19

252.13 (3) If a medical emergency, including a threat to the preservation of life

20

of a potential donee, exists under which whole blood, blood plasma, a blood product,

21

or a blood derivative that has been subjected to HIV testing under sub. (1m) is

22

unavailable, the requirement of sub. (1m) shall not apply.

23

SECTION 26. 252.13 (4) of the statutes is amended to read:

1 252.13 (4) Subsections (1m) and (2) do not apply to the extent that federal law
2 or regulations require that a blood bank, blood center, or plasma center administer
3 an HIV test to whole blood, blood plasma, a blood product, or a blood derivative.

4 **SECTION 27.** 252.13 (5) of the statutes is amended to read:

5 252.13 (5) Whole blood, blood plasma, a blood product, or a blood derivative
6 described under sub. (2) that is voluntarily donated solely for the purpose of an
7 autologous transfusion may be distributed to or used by the person who has donated
8 the whole blood, blood plasma, blood product, or blood derivative. No person other
9 than the person who has donated the whole blood, blood plasma, blood product, or
10 blood derivative may receive or use the whole blood, blood plasma, blood product, or
11 blood derivative unless it has been subjected to ~~a~~ an HIV test under sub. (1m) and
12 performance of the test has yielded a negative, validated HIV test result for the
13 presence of HIV, antigen or nonantigenic products of HIV or an antibody to HIV.

14 **SECTION 28.** 252.133 (title) of the statutes is created to read:

15 **252.133 (title) HIV testing for anatomical gifts.**

16 **SECTION 29.** 252.14 (2) (intro.) of the statutes is amended to read:

17 252.14 (2) (intro.) No health care provider, peace officer, fire fighter,
18 correctional officer, state patrol officer, jailer or keeper of a jail or person designated
19 with custodial authority by the jailer or keeper, home health agency, inpatient health
20 care facility, or person who has access to a validated HIV test result may do any of
21 the following with respect to an individual who has acquired immunodeficiency
22 syndrome or has a positive, validated HIV test ~~for the presence of HIV, antigen or~~
23 ~~nonantigenic products of HIV or an antibody to HIV~~ result, solely because the
24 individual has HIV infection or an illness or medical condition that is caused by,
25 ✓ arises from, or is related to HIV infection:

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SECTION 30. 252.14 (3) of the statutes is amended to read:

252.14 (3) ~~A health care provider, home health agency, or inpatient health care facility that tests~~ administers an HIV test to an individual for HIV infection shall ~~provide counseling about HIV and referral for appropriate health care and support services as necessary.~~ A health care provider, home health agency, or inpatient

health care facility that treats an individual who has an HIV infection or acquired immunodeficiency syndrome shall develop and follow procedures that shall ensure continuity of care for the individual in the event that his or her condition exceeds the scope of licensure or certification of the provider, agency, or facility.

SECTION 31. 252.14 (4) of the statutes is amended to read:

252.14 (4) Any person violating sub. (2) is liable to the patient for actual damages and costs, plus exemplary damages of up to \$5,000 \$10,000 for an intentional violation. In determining the amount of exemplary damages, a court shall consider the ability of a health care provider who is an individual to pay exemplary damages.

SECTION 32. 252.15 (title) of the statutes is amended to read:

252.15 (title) Restrictions on use of ~~a~~ an HIV test for HIV.

SECTION 33. 252.15 (1) (ab) of the statutes is repealed.

SECTION 34. 252.15 (1) (ac) of the statutes is created to read:

252.15 (1) (ac) "Authorized representative" means a health care agent, as defined under s. 155.01 (4), acting in accordance with a power of attorney for health care that is in effect under s. 155.05 (2), or ^{any of the following} a person named by the court under ch. 48 or 54 or ch. 880, 2003 stats., having the duty and authority of guardianship.

SECTION 35. 252.15 (1) (am) of the statutes is amended to read:

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24

1 252.15 (1) (am) "Health care professional" means a physician or physician
2 assistant who is licensed under ch. 448 or a registered nurse or licensed practical
3 nurse who is licensed under ch. 441.

4 **SECTION 36.** 252.15 (1) (d) of the statutes is repealed.

5 **SECTION 37.** 252.15 (1) (e) of the statutes is repealed.

6 **SECTION 38.** 252.15 (1) (em) (intro.) of the statutes is amended to read:

7 252.15 (1) (em) (intro.) "~~Significantly exposed~~" "Significant exposure" means
8 ~~sustained a~~ contact ~~which~~ that carries a potential for a transmission of HIV, by one
9 or more of the following:

10 **SECTION 39.** 252.15 (1) (fm) of the statutes is amended to read:

11 252.15 (1) (fm) "~~Universal~~ Standard precautions" means measures that a
12 health care provider, an employee of a health care provider or other individual takes
13 in accordance with recommendations of the federal centers for disease control for the
14 health care provider, employee or other individual for prevention of HIV
15 transmission in health-care settings.

16 **SECTION 40.** 252.15 (2) (title) of the statutes is repealed.

17 **SECTION 41.** 252.15 (2) (a) (intro.) of the statutes is repealed.

18 **SECTION 42.** 252.15 (2) (a) 1. of the statutes is renumbered 252.133 (1) and
19 amended to read:

20 252.133 (1) Except as provided in ~~subd. 1g.~~ sub. (2), a health care provider, as
21 defined in s. 252.15 (1) (ar), who procures, processes, distributes, or uses a human
22 body part or human tissue that is the subject of an anatomical gift under s. 157.06
23 shall, ~~without obtaining consent to the testing,~~ have an HIV test for the presence of
24 HIV, antigen or nonantigenic products of HIV or an antibody to HIV performed on
25 the donor of the body part or tissue in order to assure medical acceptability of the gift

1 for the purpose intended. The health care provider shall use ~~as a~~ an HIV test for the
2 presence of HIV, antigen or nonantigenic products of HIV or an antibody to HIV a test
3 ~~or series of tests that the state epidemiologist finds medically significant and~~
4 ~~sufficiently reliable to detect the presence of HIV, antigen or nonantigenic products~~
5 ~~of HIV or an antibody to HIV~~ that yields a validated HIV test result. If the validated
6 HIV test result of the donor ~~from the test or series of tests performed~~ is positive, the
7 human body part or human tissue donated for use or proposed for donation may not
8 be used.

9 **SECTION 43.** 252.15 (2) (a) 1g. of the statutes is renumbered 252.133 (2) and
10 amended to read:

11 252.133 (2) If ~~a medical emergency~~, as determined by the attending physician
12 of a potential donee of a human body part or human tissue and including a threat to
13 ~~the preservation of life of the potential donee~~, a medical emergency exists under
14 which a human body part or human tissue that has been subjected to testing under
15 ~~subd. 1. sub. (1)~~ is unavailable, including a threat to the preservation of the the life
16 of the potential donee, the requirement of ~~subd. 1. sub. (1)~~ does not apply.

17 **SECTION 44.** 252.15 (2) (a) 2. of the statutes is renumbered 252.15 (2m) (b) 1.
18 and amended to read:

19 252.15 (2m) (b) 1. The HIV testing of any body fluid or tissue that is performed
20 by the department, a laboratory certified under 42 USC 263a, or a health care
21 provider, blood bank, blood center, or plasma center may, for the purpose of research
22 ~~and without first obtaining written consent to the testing, subject any body fluids or~~
23 ~~tissues to a test for the presence of HIV, antigen or nonantigenic products of HIV or~~
24 ~~an antibody to HIV~~, if the testing is performed in a manner by which the identity of
25 the test subject is not known and may not be retrieved by the researcher.

1 **SECTION 45.** 252.15 (2) (a) 3. of the statutes is renumbered 252.15 (2m) (b) 2.
2 and amended to read:

3 252.15 (2m) (b) 2. ~~The medical director~~ HIV testing of a resident or patient of
4 a center for the developmentally disabled, as defined in s. 51.01 (3), or a mental
5 health institute, as defined in s. 51.01 (12), ~~may, without obtaining consent to the~~
6 ~~testing, subject a resident or patient of the center or institute to a test for the presence~~
7 ~~of HIV, antigen or nonantigenic products of HIV or an antibody to HIV if he or she~~
8 if the medical director of the center or institute determines that the conduct of the
9 resident or patient poses a significant risk of transmitting HIV to another resident
10 or patient of the center or institute and if the medical director provides the resident
11 or patient, or the resident's or patient's guardian, an explanation of the HIV test
12 result.

13 **SECTION 46.** 252.15 (2) (a) 4. (intro.), a. and b. of the statutes are consolidated,
14 renumbered 252.15 (2m) (b) 3. and amended to read:

15 252.15 (2m) (b) 3. ~~A health care provider may subject~~ HIV testing by a health
16 care provider of an individual to a test for the presence of HIV, antigen or
17 nonantigenic products of HIV or an antibody to HIV, without obtaining consent to the
18 testing from the individual, if all of the following apply: a. The individual who has
19 been adjudicated incompetent in this state, is under 14 years of age or is unable to
20 give consent because he or she is unable to communicate due to a medical condition.
21 b. The if the health care provider obtains consent for the testing from provides the
22 individual's guardian, if the individual is adjudicated incompetent in this state; from
23 the individual's parent or guardian, if the individual is under 14 years of age; or from
24 the individual's closest living relative or another with whom the individual has a
25 meaningful social and emotional relationship if the individual is not a minor nor

1 adjudicated incompetent the notifications and information described under par. (a)
 2 1. to 3., gives the guardian an opportunity to ask questions, and the guardian either
 3 consents to or does not decline HIV testing for the individual.

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4 SECTION 47. 252.15 (2) (a) 6. of the statutes is renumbered 252.15 (2m) (b) 6. 3. ✓

5 and amended to read:

6 252.15 (2m) (b) 6. A HIV testing by a health care professional acting under
 7 an order of the court under ~~subd. 7.~~ sub. (5j) or s. 938.296 (4) or (5) or 968.38 (4) or
 8 (5) ~~may, without first obtaining consent to the testing, subject an individual to a test~~
 9 ~~or a series of tests to detect the presence of HIV, antigen or nonantigenic products of~~
 10 ~~HIV or an antibody to HIV.~~ No sample used for laboratory test purposes under this
 11 subdivision may disclose the name of the HIV test subject, and, ~~notwithstanding sub.~~
 12 ~~(4)(e),~~ the HIV test results may not be made part of the individual's permanent
 13 medical record.

14 SECTION 48. 252.15 (2) (a) 7. a. of the statutes is renumbered 252.15 (5g) (a) 1.

15 and amended to read:

16 252.15 (5g) (a) 1. ~~If all of the conditions under subd. 7. ai. to c. are met, an~~ The
 17 person is an emergency medical technician; first responder; fire fighter; peace officer;
 18 correctional officer; person who is employed at a juvenile correctional facility, as
 19 defined in s. 938.02 (10p), or a secured residential care center for children and youth,
 20 as defined in s. 938.02 (15g); state patrol officer; jailer, keeper of a jail, or person
 21 designated with custodial authority by the jailer or keeper; and the contact occurred
 22 during the course of the person providing care or services to ~~an~~ the individual;.

23 2. The person is a peace officer, correctional officer, state patrol officer, jailer,
 24 or keeper of a jail, or person designated with custodial authority by the jailer or

1 keeper, and the contact occurred while the person was searching or arresting an the
2 individual or while controlling or transferring an the individual in custody;

3 3. The person is a health care provider or an employee of a health care provider,
4 and the contact occurred during the course of the person providing care or treatment
5 to an the individual or handling or processing specimens of body fluids or tissues of
6 an the individual;

7 4. The person is a staff member of a state crime laboratory, and the contact
8 occurred during the course of the person handling or processing specimens of body
9 fluids or tissues of an the individual;

10 5. The person is a social worker; or an employee of a school district, cooperative
11 educational service agency, charter school, private school, the Wisconsin
12 Educational Services Program for the Deaf and Hard of Hearing, or the Wisconsin
13 Center for the Blind and Visually Impaired, and the contact occurred while the
14 person was performing employment duties involving an the individual; who is
15 significantly exposed to the individual may subject the individual's blood to a test or
16 a series of tests for the presence of HIV, antigen or nonantigenic products of HIV or
17 an antibody to HIV and may receive disclosure of the results.

18 **SECTION 49.** 252.15 (2) (a) 7. ai. of the statutes is renumbered 252.15 (5g) (b)
19 and amended to read:

20 252.15 (5g) (b) ~~The affected person uses universal~~ If the contact occurs as
21 provided under par. (a) 1. to 5., the entity that employs or contracts with the person
22 to provide the services described under par. (a) 1. to 5. requires, as a general policy,
23 that standard precautions, if any, against significant exposure, and was using
24 universal precautions at the time that he or she was significantly exposed be taken
25 during provision of the services, except in those emergency circumstances in which

1 the time necessary for use of the universal standard precautions would endanger the
2 life of the individual.

3 **SECTION 50.** 252.15 (2) (a) 7. ak. of the statutes is renumbered 252.15 (5g) (c)
4 and amended to read:

5 252.15 (5g) (c) A physician, physician assistant, or advanced practice nurse
6 prescriber, based on information provided to the physician, physician assistant, or
7 advanced practice nurse prescriber, determines and certifies in writing that the
8 ~~affected person has been significantly exposed~~ had contact that constitutes a
9 significant exposure. The certification shall accompany the request for HIV testing
10 and disclosure. If the ~~affected person who is significantly exposed~~ is a physician,
11 physician assistant, or advanced practice nurse prescriber, he or she may not make
12 this determination or certification. The information that is provided to a physician,
13 physician assistant, or advanced practice nurse prescriber to document the
14 occurrence of the contact that constitutes a significant exposure and the physician's,
15 physician assistant's, or advanced practice nurse prescriber's certification that ~~an~~
16 ~~affected the person has been significantly exposed, under this subd. 7. ak. had~~
17 contact that constitutes a significant exposure, shall be provided on a report form
18 that is developed by the department of commerce under s. 101.02 (19) (a) or on a
19 report form that the department of commerce determines, under s. 101.02 (19) (b),
20 is substantially equivalent to the report form that is developed under s. 101.02 (19)
21 (a).

22 **SECTION 51.** 252.15 (2) (a) 7. am. of the statutes is renumbered 252.15 (5g) (d)
23 and amended to read:

24 252.15 (5g) (d) The affected person submits to ~~a~~ an HIV test for the presence
25 of ~~HIV, antigen or nonantigenic products of HIV or an antibody to HIV~~, as soon as

1 feasible or within a time period established by the department after consulting
2 guidelines of the centers for disease control of the federal public health service,
3 whichever is earlier.

4 SECTION 52. 252.15 (2) (a) 7. ap. of the statutes is renumbered 252.15 (5g) (e)
5 and amended to read:

6 252.15 (5g) (e) Except as provided in subd. 7. ~~av. to c. sub. (5j)~~, the HIV test is
7 performed on blood of the individual that is drawn for a purpose other than HIV
8 testing ~~for the presence of HIV, antigen or nonantigenic products of HIV or an~~
9 ~~antibody to HIV.~~

10 SECTION 53. 252.15 (2) (a) 7. ar. of the statutes is renumbered 252.15 (5g) (f)
11 and amended to read:

12 252.15 (5g) (f) The individual, ~~if capable of consenting,~~ has been given an
13 opportunity to ^{Plan} ~~be tested with his or her consent to HIV testing~~ and has not consented
14 declined.

15 SECTION 54. 252.15 (2) (a) 7. at. of the statutes is renumbered 252.15 (5g) (g)
16 (intro.) and amended to read:

17 252.15 (5g) (g) (intro.) The individual has been informed that of all of the
18 following:

19 1. That an HIV test may be performed on his or her blood may be tested for the
20 presence of HIV, antigen or nonantigenic products of HIV or an antibody to HIV; that,

21 2. That the HIV test results may be disclosed to no one, including that
22 individual, without his or her consent, except to the person who is certified to have
23 been significantly exposed; that, and the person's physician, physician assistant, or
24 nurse.

Subjected to an HIV test in accordance with the conditions under sub. (5m)(a)

1 4. ~~That~~, if the person knows the identity of the individual, ~~he or she~~ the person
2 may not disclose the identity to any other person except for the purpose of having the
3 HIV test or series of tests performed; and that.

4 5. ~~That~~ a record may be kept of the HIV test results only if the record does not
5 reveal the individual's identity.

6 **SECTION 55.** 252.15 (2) (a) 7. av. of the statutes is renumbered 252.15 (5j) (a)
7 and amended to read:

8 252.15 (5j) (a) ~~If blood that is specified in subd. 7. ap. is unavailable, the person~~
9 ~~who is certified under subd. 7. ak. to have been significantly exposed~~ A person who
10 may cause an individual to be subjected to HIV testing under sub. (5g) may request
11 the district attorney to apply to the circuit court for his or her county to order the
12 individual to submit to ~~a~~ an HIV test or a series of tests for the presence of HIV,
13 ~~antigen or nonantigenic products of HIV or an antibody to HIV and to disclose the~~
14 ~~results to that person~~ if no blood of the individual that was drawn for a purpose other
15 than HIV testing is available for HIV testing. ~~The~~ A person who is certified under
16 ~~subd. 7. ak. to have been significantly exposed~~ making a request to a district attorney
17 under this paragraph shall accompany the request with ~~provide the district attorney~~
18 the certification under ~~subd. 7. ak~~ sub. (5g) (c).

19 **SECTION 56.** 252.15 (2) (a) 7. b. of the statutes is renumbered 252.15 (5j) (b) and
20 amended to read:

21 252.15 (5j) (b) Upon receipt of a request and certification under the
22 ~~requirements of this subdivision~~ par. (a), a district attorney shall, as soon as possible
23 so as to enable the court to provide timely notice, apply to the circuit court for his or
24 her county to order the individual to submit to ~~a~~ an HIV test or a series of tests as

1 ~~specified in subd. 7. a., administered by a health care professional, and to disclose~~
2 ~~the results of the test or tests as specified in subd. 7. e.~~

3 **SECTION 57.** 252.15 (2) (a) 7. c. of the statutes is renumbered 252.15 (5j) (c) and
4 amended to read:

5 252.15 **(5j)** (c) The court shall set a time for a hearing on the matter under subd.
6 ~~7. a. this subsection~~ within 20 days after receipt of a request under subd. ~~7. b~~ par. (b).
7 The court shall give the district attorney and the individual from whom ~~a~~ an HIV
8 test is sought notice of the hearing at least 72 hours prior to the hearing. The
9 individual may have counsel at the hearing, and counsel may examine and
10 cross-examine witnesses. If the court finds probable cause to believe that the person
11 who requested a court order for testing has had contact with body fluid of the
12 individual has significantly exposed the affected person that constitutes a significant
13 exposure, the court shall, except as provided in subd. ~~7. d. par. (d)~~, order the
14 individual to submit to ~~a~~ an HIV test or a series of tests for the presence of HIV,
15 antigen or nonantigenic products of HIV or an antibody to HIV. ~~The court shall~~
16 ~~require the health care professional who performs the test or series of tests to refrain~~
17 ~~from disclosing the test results to the individual and to disclose the test results to the~~
18 ~~affected person and his or her health care professional.~~ No sample used for
19 laboratory test purposes under this subd. ~~7. e. paragraph~~ may disclose the name of
20 the HIV test subject.

21 **SECTION 58.** 252.15 (2) (a) 7. d. of the statutes is renumbered 252.15 (5j) (d) and
22 amended to read:

23 252.15 **(5j)** (d) The court is not required to order ~~the~~ an individual to submit
24 to ~~a~~ an HIV test under subd. ~~7. e. par. (c)~~ if the court finds substantial reason relating
25 to the life or health of the individual not to do so and states the reason on the record.