

1 **SECTION 59.** 252.15 (2) (a) 7m. of the statutes is renumbered 252.15 (3m) (f) and
2 amended to read:

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

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

7 3. The person who was certified to have been significantly exposed. A record
8 may be retained of the test results only if the record does not reveal the individual's
9 identity. If the affected person knows the identity of the individual whose blood was
10 tested, he or she may not disclose the identity to any other person except for the
11 purpose of having the test or series of tests performed had contact that constitutes
12 a significant exposure and to that person's physician, physician assistant, or nurse.

13 **SECTION 60.** 252.15 (2) (am) of the statutes is repealed.

14 **SECTION 61.** 252.15 (2) (b) of the statutes is repealed.

15 **SECTION 62.** 252.15 (2) (bm) of the statutes is repealed.

16 **SECTION 63.** 252.15 (2m) (title) of the statutes is created to read:

17 252.15 **(2m)** (title) CONSENT FOR HIV TESTING.

18 **SECTION 64.** 252.15 (2m) (a) of the statutes is created to read:

19 252.15 **(2m)** (a) Except as provided in par. (b), and subject to par. (c), a health
20 care provider, blood bank, blood center, or plasma center may not subject a person
21 to an HIV test unless all of the following conditions are satisfied:

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

1 authorized representative understands that an HIV test will be performed on the
2 person.

3 2. If a health care provider offers to perform an HIV test, the health care
4 provider notifies the person who is to be subjected to the HIV test or the person's
5 authorized representative that health care services will not be withheld from the
6 person if the person or authorized representative declines the test.

7 3. The health care provider, blood bank, blood center, or plasma center provides
8 the person or the person's authorized representative a brief oral or written
9 explanation of HIV infection, HIV test results, requirements under subs. (7) (b) and
10 (7m) for reporting HIV test results treatment options and services that are available
11 to a person who has a positive HIV test result and information regarding
12 organizations that provide support services to persons who have a positive HIV test
13 result.

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

16 5. After receiving the notifications and information under subs. 1. to 3. and
17 having an opportunity to ask questions under subd. 4., the person or the person's
18 authorized representative consents to or does not decline having an HIV test
19 performed on the person, and the health care provider, blood bank, blood center, or
20 plasma center ensures that the consent or failure to decline is voluntary.

21 **SECTION 65.** 252.15 (2m) (b) (intro.) of the statutes is created to read:

22 252.15 (2m) (b) Paragraph (a) does not apply to any of the following:

23 **SECTION 66.** 252.15 (2m) (b) 4. of the statutes is created to read: ✓

24 252.15 (2m) (b) 4. HIV testing by a health care provider of an individual who
25 is under 14 years of age if the health care provider provides the individual's parent,

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

5 **SECTION 67.** 252.15 (2m) (b) 5. of the statutes is created to read:

6 252.15 (2m) (b) 5. HIV testing by a health care provider of an individual who
 7 is unable to communicate due to a medical condition if the health care provider
 8 provides the individual's closest living relative or other person with whom the
 9 individual has a meaningful social and emotional relationship the notifications and
 10 information described under par. (a) 1. to 3., gives the relative or other person an
 11 opportunity to ask questions, and the relative or other person either consents to or
 12 does not decline HIV testing for the individual.

13 **SECTION 68.** 252.15 (2m) (b) 7. of the statutes is created to read:

14 252.15 (2m) (b) 7. HIV testing in cases of significant exposure, as provided
 15 under sub. (5g) or (5j).

16 **SECTION 69.** 252.15 (2m) (b) 8. of the statutes is created to read:

17 252.15 (2m) (b) 8. HIV testing of a donor of a human body part or human tissue
 18 that is required under s. 252.133.

19 **SECTION 70.** 252.15 (2m) (c) of the statutes is created to read:

20 252.15 (2m) (c) If the subject of an HIV test is a minor who is 14 years of age
 21 or older, a health care provider, blood bank, blood center, or plasma center, shall
 22 provide the notifications and information required under par. (a) 1. to 3. to the minor
 23 or his or her authorized representative, and only the minor or his or authorized
 24 representative may give the consent or failure to decline an HIV test that is required
 25 under par. (a).

consent to or decline an HIV test

1 **SECTION 71.** 252.15 (2r) of the statutes is created to read:

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

5 **SECTION 72.** 252.15 (3) of the statutes is repealed.

6 **SECTION 73.** 252.15 (3m) (b) 1. to 7. of the statutes are created to read:

7 252.15 (3m) (b) 1. The name of the subject of the HIV test.

8 2. Specification of the information that may be disclosed.

9 3. The name of the person authorized to make the disclosure.

10 4. The name of the person to whom the disclosure is authorized.

11 5. The signature of the subject of the HIV test or the signature of the subject's
12 authorized representative.

13 6. The date the authorization is signed as provided under subd. 5.

14 7. The time period during which the authorization for disclosure is effective.

15 **SECTION 74.** 252.15 (3m) (c) of the statutes is created to read:

16 252.15 (3m) (c) If the subject of an HIV test is a minor who is 14 years of age
17 or older, only the minor or his or her authorized representative may exercise the test
18 subject's authority to disclose HIV test results under par. (a) or to authorize
19 disclosure of HIV test results under par. (b).

20 **SECTION 75.** 252.15 (3m) (d) (intro.) of the statutes is created to read:

21 252.15 (3m) (d) (intro.) Except as provided under par. (f), a person who is
22 neither the subject of an HIV test nor the subject's authorized representative may
23 without written authorization from the test subject or authorized representative
24 under par. (b) disclose the subject's HIV test results to the following persons under
25 the following circumstances:

1 **SECTION 76.** 252.15 (3m) (d) 15. and 16. of the statutes are created to read:

2 252.15 (3m) (d) 15. To anyone who provides consent for the testing under sub.
3 (2m) (b) 4., except that disclosure may be made under this subdivision only until the
4 subject of the HIV test attains the age of 14. ✓

5 16. To anyone who provides consent for the testing under sub. (2m) (b) 5., except ✓
6 that disclosure may be made under this subdivision only during a period in which
7 the subject of the HIV test is unable to communicate due to a medical condition.

8 **SECTION 77.** 252.15 (3m) (e) of the statutes is created to read:

9 252.15 (3m) (e) The health care professional who performs an HIV test under
10 sub. (5g) or (5j) on behalf of a person who has contact with body fluids of the test
11 subject that constitutes as significant exposure shall disclose the HIV test results to
12 the person and the person's physician, physician assistant, or nurse.

13 **SECTION 78.** 252.15 (3m) (f) 1. of the statutes is created to read:

14 252.15 (3m) (f) 1. The subject of the test.

15 **SECTION 79.** 252.15 (3m) (g) of the statutes is created to read:

16 252.15 (3m) (g) A person who was certified to have had contact with body fluid
17 of an individual that constitutes a significant exposure and has the individual's blood
18 subjected to an HIV test under sub. (5g) or (5j) may not disclose the identity of the
19 test subject to any other person except for the purpose of having the HIV test
20 performed.

21 **SECTION 80.** 252.15 (4) (intro.) of the statutes is amended to read:

22 252.15 (4) RECORD MAINTENANCE. (intro.) A health care provider, blood bank,
23 blood center, or plasma center that obtains ~~from a person~~ a specimen of body fluids
24 or tissues from a person for the purpose of testing for the presence of HIV, antigen
25 ~~or nonantigenic products of HIV or an antibody to an HIV test, or offers to subject~~

1 a person to an HIV test, shall maintain in the person's health care record all of the
2 following:

3 **SECTION 81.** 252.15 (4) (a) of the statutes is repealed.

4 **SECTION 82.** 252.15 (4) (b) of the statutes is repealed and recreated to read:

5 252.15 (4) (b) A record of whether the person or his or her authorized
6 representative consented to or declined the HIV test under sub. (2m) (a).

7 **SECTION 83.** 252.15 (4) (bm) of the statutes is created to read:

8 252.15 (4) (bm) A record of any authorization for disclosure of HIV test results
9 that the person or his or her authorized representative has made as provided under
10 sub. (3m) (b).

11 **SECTION 84.** 252.15 (4) (c) of the statutes is amended to read:

12 252.15 (4) (c) ~~Maintain a~~ A record of the test results obtained. A record that
13 ~~is made under the circumstances described in sub. (2) (a) 7m. may not reveal the~~
14 ~~identity of the test subject~~ of an HIV test administered to the person, except that
15 results of an HIV test administered under sub. (5g) or (5j) or s. 938.296 (4) or (5) or
16 968.38 (4) or (5) that include the identity of the test subject may not be maintained
17 without the consent of the test subject.

18 **SECTION 85.** 252.15 (5) (title) of the statutes is renumbered 252.15 (3m) (title)
19 and amended to read:

20 252.15 (3m) (title) CONFIDENTIALITY AND DISCLOSURE OF HIV TEST RESULTS.

21 **SECTION 86.** 252.15 (5) (a) (intro.) of the statutes is renumbered 252.15 (3m)
22 (a) and amended to read:

23 252.15 (3m) (a) ~~An individual who is the~~ The subject of a ~~an HIV test for the~~
24 ~~presence of HIV, antigen or nonantigenic products of HIV or an antibody to HIV or~~
25 ~~the individual's health care agent, if the individual has executed a power of attorney~~

1 ~~for health care instrument under ch. 155 and has been found to be incapacitated~~
2 ~~under s. 155.05 (2), subject's authorized representative~~ may disclose the results of
3 the individual's subject's test to anyone. ~~A~~

4 (b) Except as provided under par. (d) or (e), a person who is neither the
5 individual subject of the HIV test nor the individual's health care agent subject's
6 authorized representative may not, unless he or she is specifically authorized by the
7 individual to do so, disclose the individual's subject's HIV test results except to the
8 following persons or under unless the subject of the HIV test or his or her authorized
9 representative has signed authorization for the disclosure that contains all of the
10 following circumstances:

11 **SECTION 87.** 252.15 (5) (a) 1. of the statutes is renumbered 252.15 (3m) (d) 1.
12 and amended to read:

13 252.15 (3m) (d) 1. To the subject of the HIV test and, ~~if the test subject has~~
14 ~~executed a power of attorney for health care instrument under ch. 155 and has been~~
15 ~~found to be incapacitated under s. 155.05 (2), the health care agent subject's~~
16 authorized representative.

17 **SECTION 88.** 252.15 (5) (a) 2. of the statutes is renumbered 252.15 (3m) (d) 2.
18 and amended to read:

19 252.15 (3m) (d) 2. To a health care provider who provides care to the ~~test~~ subject
20 of the HIV test, including those instances in which a health care provider provides
21 emergency care to the subject.

22 **SECTION 89.** 252.15 (5) (a) 3. of the statutes is renumbered 252.15 (3m) (d) 3.

23 **SECTION 90.** 252.15 (5) (a) 4. of the statutes is renumbered 252.15 (3m) (d) 4.,
24 and 252.15 (3m) (d) 4. (intro.), a. and b., as renumbered, are amended to read:

1 252.15 (3m) (d) 4. (intro.) To a blood bank, blood center, or plasma center that
2 ~~subjects a person to a~~ subjected the test subject to an HIV test under sub. (2) (a), for
3 any of the following purposes:

4 a. Determining the medical acceptability of blood or plasma secured from the
5 ~~test subject of the HIV test.~~

6 b. Notifying the ~~test subject~~ of the HIV test of the test results.

7 **SECTION 91.** 252.15 (5) (a) 5. of the statutes is renumbered 252.15 (3m) (d) 5.

8 **SECTION 92.** 252.15 (5) (a) 6. of the statutes is renumbered 252.15 (3m) (d) 6.
9 and amended to read:

10 252.15 (3m) (d) 6. To the state epidemiologist or his or her designee, or to a local
11 health officer or his or her designees, for the purpose of providing epidemiologic
12 surveillance or investigation or control of communicable disease.

13 **SECTION 93.** 252.15 (5) (a) 7. of the statutes is renumbered 252.15 (3m) (d) 7.
14 and amended to read:

15 252.15 (3m) (d) 7. To a funeral director, as defined under s. 445.01 (5) (a) 1. or
16 2. or (c) or to other persons who prepare the body of ~~a decedent~~ the subject of the HIV
17 test for burial or other disposition or to a person who performs an autopsy, or assists
18 in performing an autopsy, on the subject of the HIV test.

19 **SECTION 94.** 252.15 (5) (a) 8. and 9. of the statutes are renumbered 252.15 (3m)
20 (d) 8. and 9.

21 **SECTION 95.** 252.15 (5) (a) 10. of the statutes is renumbered 252.15 (3m) (d) 10.,
22 and 252.15 (3m) (d) 10. (intro.), a. and c., as renumbered, are amended to read:

23 252.15 (3m) (d) 10. (intro.) ~~To~~ Except as provided under par. (g), to a person who
24 conducts research, for the purpose of research, if the researcher:

25 a. Is affiliated with a health care provider under subd. 3 2.

1 c. Provides written assurance to the person disclosing the HIV test results that
2 use of the information requested is only for the purpose under which it is provided
3 to the researcher, the information will not be released to a person not connected with
4 the study, and the final research product will not reveal information that may
5 identify the test subject unless the researcher has first received informed consent for
6 disclosure from the test subject.

7 **SECTION 96.** 252.15 (5) (a) 11. of the statutes is repealed.

8 **SECTION 97.** 252.15 (5) (a) 12. of the statutes is renumbered 252.15 (3m) (d) 11.
9 and amended to read:

10 252.15 (3m) (d) 11. To a coroner, medical examiner, or an appointed assistant
11 to a coroner or medical examiner, if one or more of the following ~~conditions exist~~
12 applies:

13 a. ~~The coroner, medical examiner, or an appointed assistant is investigating the~~
14 cause of death of the subject of the HIV test and possible HIV-infected status is
15 ~~relevant to the cause of death of a person whose death is under direct investigation~~
16 ~~by the coroner, medical examiner or appointed assistant.~~

17 b. The coroner, medical examiner, or appointed assistant is ~~significantly~~
18 ~~exposed to a person whose death is under direct investigation by the coroner, medical~~
19 ~~examiner, or appointed assistant~~ investigating the cause of death of the subject of the
20 HIV test and has contact with the body fluid of the subject of the HIV test that
21 constitutes a significant exposure, if a physician, physician assistant, or advanced
22 practice nurse prescriber, based on information provided to the physician, physician
23 assistant, or advanced practice nurse prescriber, determines and certifies in writing
24 ~~that the coroner, medical examiner, or appointed assistant has been significantly~~

1 exposed had a contact that constitutes a significant exposure and if the certification
2 accompanies the request for disclosure.

3 SECTION 98. 252.15 (5) (a) 13. of the statutes is renumbered 252.15 (3m) (d) 12.
4 and amended to read:

5 252.15 (3m) (d) 12. To a sheriff, jailer, or keeper of a prison, jail, or house of
6 correction or a person designated with custodial authority by the sheriff, jailer, or
7 keeper, for whom disclosure is necessitated in order to permit the assigning of a
8 private cell to a prisoner who has a positive HIV test result.

9 SECTION 99. 252.15 (5) (a) 14. of the statutes is renumbered 252.15 (3m) (d) 13.
10 and amended to read:

11 252.15 (3m) (d) 13. If the ~~test results of a test administered to an individual~~
12 are subject of the HIV test has a positive HIV test result and ~~the individual is~~
13 deceased, by the individual's subject's attending physician, physician assistant, or
14 advanced practice nurse prescriber, to persons, if known to the physician, physician
15 assistant, or advanced practice nurse prescriber, with whom the individual has
16 subject had sexual contact or has shared intravenous drug use paraphernalia.

17 SECTION 100. 252.15 (5) (a) 15. of the statutes is renumbered 252.15 (3m) (d)
18 14. and amended to read:

19 252.15 (3m) (d) 14. To anyone who provides consent for the testing under sub.
20 ~~(2)(a) 4. b. (2m) (b) 3.~~, except that disclosure may be made under this subdivision only
21 during a period in which the test subject of the HIV test is adjudicated incompetent
22 in this state, ~~is under 14 years of age, or is unable to communicate due to a medical~~
23 condition.

24 SECTION 101. 252.15 (5) (a) 17. of the statutes is renumbered 252.15 (3m) (d)
25 (17) and amended to read:

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1 252.15 (3m) (d) ^{14. ✓} (17). To an alleged victim or victim, to a health care professional,
2 upon request a person under s. 938.296 (4) (a) to (e) as specified in s. 938.296 (4) (e)
3 ~~or; to a person under s. 938.296 (5) (a) to (e) as specified in s. 938.296 (5) (e) or; to a~~
4 person under s. 968.38 (4) (a) to (c) or (5) (e), who provides care to the alleged victim
5 ~~or victim and, if the alleged victim or victim is a minor, to the parent or guardian of~~
6 ~~the alleged victim or victim, as specified in s. 968.38 (4); or to a person under s.~~
7 ~~938.296 (4) or (5) or (a) to (c) as specified in s. 968.38 (4) or (5).~~ 968.38 ✓

8 SECTION 102. 252.15 (5) (a) 18. of the statutes is repealed.

9 SECTION 103. 252.15 (5) (a) 19. of the statutes is renumbered 252.15 (3m) (d)

10 ^{15. ✓} (18) and amended to read:

11 252.15 (3m) (d) ^{15. ✓} (18). If the subject of the HIV test was administered to is a child
12 who has been placed in a foster home, treatment foster home, group home,
13 residential care center for children and youth, or juvenile correctional facility, as
14 defined in s. 938.02 (10p), including a placement under s. 48.205, 48.21, 938.205, or
15 938.21, or for whom placement in a foster home, treatment foster home, group home,
16 residential care center for children and youth, or juvenile correctional facility is
17 recommended under s. 48.33 (4), 48.425 (1) (g), 48.837 (4) (c), or 938.33 (3) or (4), to
18 an agency directed by a court to prepare a court report under s. 48.33 (1), 48.424 (4)
19 (b), 48.425 (3), 48.831 (2), 48.837 (4) (c), or 938.33 (1), to an agency responsible for
20 preparing a court report under s. 48.365 (2g), 48.425 (1), 48.831 (2), 48.837 (4) (c), or
21 938.365 (2g), to an agency responsible for preparing a permanency plan under s.
22 48.355 (2e), 48.38, 48.43 (1) (c) or (5) (c), 48.63 (4) or (5) (c), 48.831 (4) (e), 938.355 (2e),
23 or 938.38 regarding the child, or to an agency that placed the child or arranged for
24 the placement of the child in any of those placements and, by any of those agencies,
25 to any other of those agencies and, by the agency that placed the child or arranged

1 for the placement of the child in any of those placements, to the child's foster parent
2 or treatment foster parent or the operator of the group home, residential care center
3 for children and youth, or juvenile correctional facility in which the child is placed,
4 as provided in s. 48.371 or 938.371.

5 **SECTION 104.** 252.15 (5) (a) 20. of the statutes is renumbered 252.15 (3m) (d)

6 (19) and amended to read:

7 252.15 (3m) (d) (19) To a - If the subject of the HIV test is a prisoner, to the
8 prisoner's health care provider, the medical staff of a prison or jail in which a prisoner
9 is confined, the receiving institution intake staff at a prison or jail to which a prisoner
10 is being transferred or a person designated by a jailer to maintain prisoner medical
11 records, if the disclosure is made with respect to the prisoner's patient health care
12 records under s. 302.388, to the medical staff of a jail to whom the HIV results are
13 disclosed under s. 302.388 (2) (c) or (d), to the medical staff of a jail to which a prisoner
14 is being transferred, if the results are provided to the medical staff by the department
15 of corrections as part of the prisoner's medical file, to a health care provider to whom
16 the results are disclosed under s. 302.388 (2) (c) or (f) or the department of corrections
17 if the disclosure is made with respect to a prisoner's patient health care records under
18 s. 302.388 (4).

19 **SECTION 105.** 252.15 (5) (b) of the statutes is renumbered 252.15 (3m) (h) and
20 amended to read:

21 252.15 (3m) (h) A private pay patient may ~~deny access to~~ prohibit disclosure
22 of his or her HIV test results ~~granted~~ under par. (a) (d) 10. if he or she annually
23 submits to the maintainer of his or her HIV test results under sub. (4) (c) a signed,
24 written request that ~~denial be made~~ disclosure be prohibited.

25 **SECTION 106.** 252.15 (5g) (intro.) and (a) of the statutes are created to read:

1 252.15 **(5g)** SIGNIFICANT EXPOSURE. A person who has contact with body fluid
2 of an individual that constitutes a significant exposure may cause the individual to
3 be subjected to HIV testing and receive the results of the HIV test under sub. (3m)
4 (e) if all of the following apply:

5 (a) The contact occurred under one of the following circumstances:

6 **SECTION 107.** 252.15 (5g) (a) 6. of the statutes is created to read:

7 252.15 **(5g)** (a) 6. While the person rendered emergency care at the scene of an
8 emergency or accident, if the person is immune from civil liability for rendering the
9 care under s. 895.48 or 895.4802 (2).

10 **SECTION 108.** 252.15 (5g) (g) 3. of the statutes is created to read:

11 252.15 **(5g)** (g) 3. That, except as provided in subd. 2., the HIV test may not be
12 disclosed to any person.

13 **SECTION 109.** 252.15 (5j) (title) of the statutes is created to read:

14 252.15 **(5j)** (title) COURT ORDER FOR HIV TESTING.

15 **SECTION 110.** 252.15 (5m) (title) of the statutes is amended to read:

16 252.15 **(5m)** (title) AUTOPSIES; HIV TESTING OF CERTAIN CORPSES.

17 **SECTION 111.** 252.15 (5m) (intro.) of the statutes is renumbered 252.15 (5m) (d)
18 (intro) and amended to read:

19 252.15 **(5m)** (d) (intro.) Notwithstanding s. 157.05, a corpse may be subjected
20 to ~~a~~ an HIV test for the presence of HIV, antigen or nonantigenic products of HIV
21 ~~or an antibody to HIV~~ and the test results disclosed to the a person who has been
22 ~~significantly exposed under any of~~ contact that constitutes a significant exposure
23 with body fluid of the corpse or an individual who subsequently dies, if all of the
24 following conditions apply:

1 **SECTION 112.** 252.15 (5m) (a) of the statutes is renumbered 252.15 (5m) (d) 1.

2 a. and amended to read:

3 252.15 **(5m)** (d) 1. a. ~~If a While the person, including a person exempted from~~
4 ~~civil liability under the conditions specified under s. 895.48, or 895.4802, or 895.4803,~~
5 ~~who (2) renders to the victim of an emergency or accident emergency care during the~~
6 ~~course of which the emergency caregiver is significantly exposed to the an emergency~~
7 ~~or accident victim and the emergency or accident victim subsequently dies prior to~~
8 ~~testing for the presence of performance of an HIV, antigen or nonantigenic products~~
9 ~~of HIV, or an antibody to HIV; if a physician or advanced practice nurse prescriber,~~
10 ~~based on information provided to the physician or advanced practice nurse~~
11 ~~prescriber, determines and certifies in writing that the emergency caregiver has~~
12 ~~been significantly exposed; and if the certification accompanies the request for~~
13 ~~testing and disclosure. Testing of a corpse under this paragraph shall be ordered by~~
14 ~~the coroner, medical examiner, or physician who certifies the victim's cause of death~~
15 ~~under s. 69.18 (2) (b), (c) or (d) test on the victim.~~

16 **SECTION 113.** 252.15 (5m) (b) of the statutes is renumbered 252.15 (5m) (d) 1.

17 b. and amended to read:

18 252.15 **(5m)** (d) 1. b. ~~If The person is a funeral director, coroner, medical~~
19 ~~examiner, or appointed assistant to a coroner or medical examiner who and the~~
20 ~~contact occurs while the person prepares the corpse of a decedent for burial or other~~
21 ~~disposition or a while the person who performs an autopsy or assists in performing~~
22 ~~an autopsy is significantly exposed to on the corpse; if a physician or advanced~~
23 ~~practice nurse prescriber, based on information provided to the physician or~~
24 ~~advanced practice nurse prescriber, determines and certifies in writing that the~~
25 ~~funeral director, coroner, medical examiner, or appointed assistant has been~~

1 ~~significantly exposed; and if the certification accompanies the request for testing and~~
2 ~~disclosure. Testing of a corpse under this paragraph shall be ordered by the~~
3 ~~attending physician or advanced practice nurse prescriber of the funeral director,~~
4 ~~coroner, medical examiner, or appointed assistant who is so exposed.~~

5 **SECTION 114.** 252.15 (5m) (c) of the statutes is renumbered 252.15 (5m) (d) 1.
6 c. and amended to read:

7 252.15 (5m) (d) 1. c. ~~If The person is a health care provider or an agent or~~
8 ~~employee of a health care provider is significantly exposed to and the person has~~
9 ~~contact with body fluid of the corpse, or to of a patient who dies subsequent to the~~
10 ~~exposure contact and prior to testing for the presence performance of an HIV, antigen~~
11 ~~or nonantigenic products of HIV, or an antibody to HIV; if a physician or advanced~~
12 ~~practice nurse prescriber who is not the health care provider, based on information~~
13 ~~provided to the physician or advanced practice nurse prescriber, determines and~~
14 ~~certifies in writing that the health care provider, agent or employee has been~~
15 ~~significantly exposed; and if the certification accompanies the request for testing and~~
16 ~~disclosure. Testing of a corpse under this paragraph shall be ordered by the~~
17 ~~physician or advanced practice nurse prescriber who certifies that the significant~~
18 ~~exposure has occurred test on the patient.~~

19 **SECTION 115.** 252.15 (5m) (d) 1. (intro.) of the statutes is created to read:

20 252.15 (5m) (d) 1. The contact occurs under any of the following circumstances:

21 **SECTION 116.** 252.15 (5m) (d) 2. and 3. of the statutes are created to read:

22 252.15 (5m) (d) 2. A physician, physician assistant, or advanced practice nurse
23 prescriber, based on information provided to the physician, physician assistant, or
24 advanced practice nurse prescriber, determines and certifies in writing that the
25 contact under subd. 1. constitutes a significant exposure. A health care provider who

1 as a contact under par. (d) 1. c. may not make the certification under this subdivision
2 for himself or herself.

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

5 **SECTION 117.** 252.15 (5m) (e) of the statutes is created to read:

6 252.15 (5m) (e) If the conditions under par. (d) are satisfied, the following
7 person shall order an HIV test of the corpse:

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

11 2. If the contact occurs as provided under par. (d) 1. b., the attending physician
12 or advanced practice nurse prescriber of the funeral director, coroner, medical
13 examiner, or appointed assistant.

14 3. If the contact occurs as provided under (d) 1. c., the physician or advanced
15 practice nurse prescriber who makes the certification under par. (d) 2.

16 **SECTION 118.** 252.15 (6) of the statutes is amended to read:

17 252.15 (6) EXPANDED DISCLOSURE OF HIV TEST RESULTS PROHIBITED. No person
18 to whom the results of a an HIV test for the presence of HIV, antigen or nonantigenic
19 products of HIV or an antibody to HIV have been disclosed under sub. (5) (a) (3m) (a),
20 (b), (d), or (e) or (5m) may disclose the test results except as authorized under sub.
21 (5) (a) (3m) (a), (b), (d), or (e) or (5m).

22 **SECTION 119.** 252.15 (7) (title) of the statutes is amended to read:

23 252.15 (7) (title) REPORTING OF POSITIVE HIV TEST RESULTS.

24 **SECTION 120.** 252.15 (7) (a) of the statutes is amended to read:

1 252.15 (7) (a) Notwithstanding ss. 227.01 (13) and 227.10 (1), for the purposes
2 of this subsection, the state epidemiologist shall determine, based on the
3 preponderance of available scientific evidence, the procedures necessary in this state
4 to obtain a validated HIV test result and the secretary shall so declare under s.
5 250.04 (1) or (2) (a). The state epidemiologist shall revise this determination if, in
6 his or her opinion, changed available scientific evidence warrants a revision, and the
7 secretary shall declare the revision under s. 250.04 (1) or (2) (a).

8 **SECTION 121.** 252.15 (7) (b) (intro.) of the statutes is amended to read:

9 252.15 (7) (b) (intro.) If a positive, validated HIV test result is obtained from
10 ~~a~~ an HIV test subject, the health care provider, blood bank, blood center, or plasma
11 center that maintains a record of the HIV test ~~results~~ result under sub. (4) (c) shall
12 report to the state epidemiologist the following information:

13 **SECTION 122.** 252.15 (7) (b) 4. of the statutes is amended to read:

14 252.15 (7) (b) 4. The date on which the HIV test was performed.

15 **SECTION 123.** 252.15 (7) (b) 5. of the statutes is amended to read:

16 252.15 (7) (b) 5. The HIV test result.

17 **SECTION 124.** 252.15 (7) (b) 5m. of the statutes is created to read:

18 252.15 (7) (b) 5m. The mode of transmission of HIV to the test subject.

19 **SECTION 125.** 252.15 (7) (c) 1. of the statutes is amended to read:

20 252.15 (7) (c) 1. Information with respect to the sexual orientation of the HIV
21 test subject.

22 **SECTION 126.** 252.15 (7) (c) 2. of the statutes is amended to read:

23 252.15 (7) (c) 2. The identity of persons with whom the HIV test subject may
24 have had sexual contact.

25 **SECTION 127.** 252.15 (7m) of the statutes is amended to read:

1 252.15 (7m) REPORTING OF PERSONS SIGNIFICANTLY EXPOSED. If a positive,
2 validated HIV test result is obtained from a test subject, the test subject's physician,
3 physician assistant, or advanced practice nurse prescriber who maintains a record
4 of the HIV test result under sub. (4) (c) may report to the state epidemiologist the
5 name of any person known to the physician, physician assistant, or advanced
6 practice nurse prescriber to have ~~been significantly exposed to~~ had contact with body
7 fluid of the test subject that constitutes a significant exposure, only after the
8 physician, physician assistant, or advanced practice nurse prescriber has done all of
9 the following:

10 (a) Counseled the HIV test subject to inform any person who has ~~been~~
11 ~~significantly exposed to~~ had contact with body fluid of the test subject that
12 constitutes a significant exposure.

13 (b) Notified the HIV test subject that the name of any person known to the
14 physician, physician assistant, or advanced practice nurse prescriber to have ~~been~~
15 ~~significantly exposed to~~ had contact with body fluid of the test subject that
16 constitutes a significant exposure will be reported to the state epidemiologist.

17 **SECTION 128.** 252.15 (7r) of the statutes is created to read:

18 252.15 (7r) EXPLANATION OF HIV FOR TEST SUBJECTS. The department shall
19 provide to health care providers, blood banks, blood centers, and plasma centers a
20 brief explanation ^{or description} of all of the following that a health care provider, blood bank, blood
21 center, or plasma center may provide prospective HIV test subjects under sub. (2m)

22 (a) 3.:

23 (a) HIV infection.

24 (b) HIV test results.

25 (c) Requirements under subs. (7) (b) and (7m) for reporting HIV test results.

1 (d) Treatment options and services that are available to a person who has a
2 positive HIV test result.

3 (e) Information, including contract information, regarding organizations that
4 provide support services to persons who have a positive HIV test result or have
5 acquired immunodeficiency syndrome.

6 SECTION 129. 252.15 (8) of the statutes is amended to read:

7 252.15 (8) CIVIL LIABILITY. (a) Any person violating sub. ~~(2), (5) (a) (2m), (3m)~~
8 (b), (d), or (f), (5m), (6) or (7) (c) is liable to the subject of the test for actual damages,
9 costs and reasonable actual attorney fees, plus exemplary damages of up to \$1,000
10 \$2,000 for a negligent violation and up to ~~\$25,000~~ \$50,000 for an intentional
11 violation.

12 (b) The plaintiff in an action under par. (a) has the burden of proving by a
13 preponderance of the evidence that a violation occurred under sub. ~~(2), (5) (a) (2m),~~
14 (3m) (b), (d), or (f), (5m), (6) or (7) (c). A conviction under sub. ~~(2), (5) (a) (2m), (3m)~~
15 (b), (d), or (f), (5m), (6) or (7) (c) is not a condition precedent to bringing an action
16 under par. (a).

17 SECTION 130. 252.15 (9) of the statutes is amended to read:

18 252.15 (9) PENALTIES. Whoever intentionally discloses the results of ~~a blood~~
19 an HIV test in violation of sub. ~~(2) (a) 7m., (5) (a) (3m) (b) or (f) or (5m)~~ and thereby
20 causes bodily harm or psychological harm to the subject of the HIV test may be fined
21 not more than ~~\$25,000~~ \$50,000 or imprisoned not more than 9 months or both.
22 Whoever negligently discloses the results of ~~a blood~~ an HIV test in violation of sub.
23 ~~(2) (a) 7m., (5) (a) (3m) (b) or (f) or (5m)~~ is subject to a forfeiture of not more than
24 \$1,000 \$2,000 for each violation. Whoever intentionally discloses the results of ~~a~~
25 blood an HIV test in violation of sub. ~~(2) (a) 7m., (5) (a) sub. (3m) (b) or (f) or (5m),~~

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for

1 knowing that the information is confidential, and discloses the information for
2 pecuniary gain may be fined not more than \$100,000 \$200,000 or imprisoned not
3 more than 3 years and 6 months, or both.

4 **SECTION 131.** 256.15 (12) (a) of the statutes, as affected by 2009 Wisconsin Act
5 28, is amended to read:

6 256.15 (12) (a) All records made by an ambulance service provider, an
7 emergency medical technician or a first responder in administering emergency care
8 procedures to and handling and transporting sick, disabled or injured individuals
9 shall be maintained as confidential patient health care records subject to s. 252.15
10 ~~(5) (a) (intro.)~~ (3m), (6), (8) and (9), if applicable. Nothing in this paragraph or ss.
11 146.81 to 146.84 permits disclosure to an ambulance service provider, an emergency
12 medical technician or a first responder under s. 252.15 ~~(5) (a)~~ (3m), except under s.
13 252.15 ~~(5) (a)~~ (3m) (e).

14 **SECTION 132.** 440.20 (4) of the statutes is amended to read:

15 440.20 (4) In addition to any grounds for discipline specified in chs. 440 to 480,
16 the department or appropriate examining board, affiliated credentialing board or
17 board in the department may reprimand the holder of a credential or deny, limit,
18 suspend or revoke the credential of any person who intentionally violates s. 252.14
19 (2) or intentionally discloses the results of a blood test in violation of s. 252.15 ~~(5) (a)~~
20 (3m) (b) or (f) or (5m).

21 **SECTION 133.** 631.90 (1) of the statutes is amended to read:

22 631.90 (1) In this section, "HIV test" ~~means any strain of human~~
23 ~~immunodeficiency virus, which causes acquired immunodeficiency syndrome~~ has
24 the meaning given in s. 252.01 (2m).

25 **SECTION 134.** 631.90 (2) (a) of the statutes is amended to read:

1 631.90 (2) (a) Require or request directly or indirectly any individual to reveal
2 whether the individual has obtained ~~a~~ an HIV test for the presence of HIV, antigen
3 ~~or nonantigenic products of HIV or an antibody to HIV~~ or what the results of this test,
4 if obtained by the individual, were.

5 **SECTION 135.** 631.90 (2) (b) of the statutes is amended to read:

6 631.90 (2) (b) Condition the provision of insurance coverage on whether an
7 individual has obtained ~~a~~ an HIV test for the presence of HIV, antigen or
8 ~~nonantigenic products of HIV or an antibody to HIV~~ or what the results of this test,
9 if obtained by the individual, were.

10 **SECTION 136.** 631.90 (2) (c) of the statutes is amended to read:

11 631.90 (2) (c) Consider in the determination of rates or any other aspect of
12 insurance coverage provided to an individual whether an individual has obtained
13 an HIV test for the presence of HIV, antigen or nonantigenic products of HIV or an
14 ~~antibody to HIV~~ or what the results of this test, if obtained by the individual, were.

15 **SECTION 137.** 631.90 (3) (a) of the statutes is amended to read:

16 631.90 (3) (a) Subsection (2) does not apply with regard to ~~any~~ an HIV test or
17 ~~series of tests~~ for use in the underwriting of individual life, accident and health
18 insurance policies ~~that the person designated by the secretary of health services as~~
19 ~~the state epidemiologist finds medically significant and sufficiently reliable for the~~
20 ~~presence of HIV, antigen or nonantigenic products of HIV or an antibody to HIV and~~
21 that the commissioner finds and designates by rule as sufficiently reliable for use in
22 the underwriting of individual life, accident and health insurance policies.

23 **SECTION 138.** 631.90 (3) (b) of the statutes is amended to read:

1 631.90 (3) (b) Paragraph (a) does not authorize the use of any an HIV test or
2 series of tests for the presence of HIV, antigen or nonantigenic products of HIV or an
3 antibody to HIV to discriminate in violation of s. 628.34 (3).

4 **SECTION 139.** 901.05 (2) (intro.) of the statutes is amended to read:

5 901.05 (2) (intro.) Except as provided in sub. (3), the results of ~~a test or tests~~
6 ~~for the presence of HIV, antigen or nonantigenic products of HIV or an antibody to~~
7 ~~HIV~~ an HIV test, as defined in s. 252.01 (2m), are not admissible during the course
8 of a civil or criminal action or proceeding or an administrative proceeding, as
9 evidence of a person's character or a trait of his or her character for the purpose of
10 proving that he or she acted in conformity with that character on a particular
11 occasion unless the evidence is admissible under s. 904.04 (1) or 904.05 (2) and unless
12 the following procedures are used:

13 **SECTION 140.** 938.296 (1) (bm) of the statutes is created to read:

14 938.296 (1) (bm) "HIV test" has the meaning given in s. 252.01 (2m).

15 **SECTION 141.** 938.296 (1) (d) of the statutes is amended to read:

16 938.296 (1) (d) "~~Significantly exposed~~" "Significant exposure" has the meaning
17 given in s. 252.15 (1) (em).

18 **SECTION 142.** 938.296 (2) (intro.) of the statutes is amended to read:

19 938.296 (2) SEXUALLY TRANSMITTED DISEASE AND HIV TESTING. (intro.) In a
20 proceeding under s. 938.12 or 938.13 (12) in which the juvenile is alleged to have
21 violated s. 940.225, 948.02, 948.025, 948.05, 948.06, or 948.085 (2), the district
22 attorney or corporation counsel shall apply to the court for an order requiring the
23 juvenile to submit to ~~a~~ an HIV test and a test or a series of tests administered by
24 a health care professional to detect the presence of HIV, antigen or nonantigenic
25 products of HIV, an antibody to HIV or a sexually transmitted disease, each of which

1 tests shall be administered by a health care professional, and to disclose the results
2 of ~~that test or series of those~~ tests as specified in sub. (4) (a) to (e), if all of the following
3 apply:

4 **SECTION 143.** 938.296 (2) (b) of the statutes is amended to read:

5 938.296 (2) (b) The district attorney or corporation counsel has probable cause
6 to believe that ~~the juvenile has significantly exposed~~ the victim or alleged victim has
7 had contact with body fluid of the juvenile that constitutes a significant exposure.
8 If the juvenile is adjudicated delinquent, is found to be in need of protection or
9 services or is found not responsible by reason of mental disease or defect under s.
10 938.30 (5), this paragraph does not apply.

11 **SECTION 144.** 938.296 (4) (intro.) of the statutes is amended to read:

12 938.296 (4) DISCLOSURE OF SEXUALLY TRANSMITTED DISEASE AND HIV TEST
13 RESULTS. (intro.) On receipt of an application for an order under sub. (2), the court
14 shall set a time for a hearing on the application. If the juvenile has been found not
15 competent to proceed under s. 938.30 (5), the court may hold a hearing under this
16 subsection only if the court first determines that the probable cause finding can be
17 fairly made without the personal participation of the juvenile. If, after hearing, the
18 court finds probable cause to believe that ~~the juvenile has significantly exposed the~~
19 ~~victim or alleged victim~~ has had contact with body fluid of the juvenile that
20 constitutes a significant exposure, the court shall order the juvenile to submit to -a
21 an HIV test or and a test or series of tests administered by a health care professional
22 to detect the presence of HIV, antigen or nonantigenic products of HIV, an antibody
23 to HIV or a sexually transmitted disease. The tests shall be administered by a health
24 care professional. The court shall require the health care professional who performs
25 ~~the test or series of tests to refrain, notwithstanding s. 252.15 (4) (e), from making~~

1 the test results part of the juvenile's permanent medical record and to disclose the
2 results of the ~~test~~ tests to any of the following:

3 **SECTION 145.** 938.296 (5) (intro.) of the statutes is amended to read:

4 938.296 (5) DISCLOSURE OF COMMUNICABLE DISEASE TEST RESULTS. (intro.) On
5 receipt of an application for an order under sub. (2m), the court shall set a time for
6 a hearing on the application. If the juvenile has been found not competent to proceed
7 under s. 938.30 (5), the court may hold a hearing under this subsection only if the
8 court first determines that the probable cause finding can be fairly made without the
9 personal participation of the juvenile. If, after hearing, the court finds probable
10 cause to believe that the act or alleged act of the juvenile that constitutes a violation
11 of s. 946.43 (2m) carried a potential for transmitting a communicable disease to the
12 victim or alleged victim and involved the juvenile's blood, semen, vomit, saliva, urine
13 or feces or other bodily substance of the juvenile, the court shall order the juvenile
14 to submit to a test or a series of tests administered by a health care professional to
15 detect the presence of any communicable disease that was potentially transmitted
16 by the act or alleged act of the juvenile. The court shall require the health care
17 professional who performs the test or series of tests to refrain, ~~notwithstanding s.~~
18 ~~252.15 (4) (c), if applicable,~~ from making the test results part of the juvenile's
19 permanent medical record and to disclose the results of the test to any of the
20 following:

21 **SECTION 146.** 938.346 (1) (e) of the statutes is amended to read:

22 938.346 (1) (e) The procedure under s. 938.296 under which the victim, if an
23 adult, or the parent, guardian or legal custodian of the victim, if the victim is a child,
24 may request an order requiring a juvenile who is alleged to have violated s. 940.225,
25 948.02, 948.025, 948.05, 948.06, or 948.085 (2) to submit to ~~a~~ an HIV test or, as

1 defined in s. 252.01 (2m), and a test or a series of tests to detect the presence of HIV,
2 ~~as defined in s. 252.01 (1m), antigen or nonantigenic products of HIV, an antibody~~
3 ~~to HIV or a sexually transmitted disease, as defined in s. 252.11 (1), and to have the~~
4 ~~results of that test or series of the tests disclosed as provided in s. 938.296 (4) (a) to~~
5 (e).

6 **SECTION 147.** 938.371 (1) (a) of the statutes is amended to read:

7 938.371 (1) (a) Results of ~~a~~ an HIV test or a series of tests, as defined in s.
8 252.01 (2m), of the juvenile to determine the presence of HIV, as defined in s. 968.38
9 ~~(1) (b), antigen or nonantigenic products of HIV, or an antibody to HIV, as provided~~
10 under s. 252.15 (5) ~~(a) 19.~~ (3m) (d) 18, including results included in a court report
11 or permanency plan. At the time that the test results are provided, the agency shall
12 notify the foster parent, treatment foster parent, relative, or operator of the group
13 home, residential care center for children and youth, or juvenile correctional facility
14 of the confidentiality requirements under s. 252.15 (6).

15 **SECTION 148.** 968.38 (1) (bc) of the statutes is created to read:

16 968.38 (1) (bc) "HIV test" has the meaning given in s. 252.01 (2m).

17 **SECTION 149.** 968.38 (1) (d) of the statutes is amended to read:

18 968.38 (1) (d) "~~Significantly exposed~~" "Significant exposure" has the meaning
19 given in s. 252.15 (1) (em).

20 **SECTION 150.** 968.38 (2) (intro.) of the statutes is amended to read:

21 968.38 (2) (intro.) In a criminal action under s. 940.225, 948.02, 948.025,
22 948.05, 948.06, 948.085, or 948.095, if all of the following apply, the district attorney
23 shall apply to the circuit court for his or her county to order the defendant to submit
24 to ~~a~~ an HIV test or and to a test or a series of tests administered by a health care
25 professional to detect the presence of HIV, ~~antigen or nonantigenic products of HIV,~~

1 ~~an antibody to HIV or a sexually transmitted disease, each of which tests shall be~~
2 ~~administered by a health care professional,~~ and to disclose the results of the test or
3 tests as specified in sub. (4) (a) to (c):

4 **SECTION 151.** 968.38 (2) (a) of the statutes is amended to read:

5 968.38 (2) (a) The district attorney has probable cause to believe that the
6 ~~defendant has significantly exposed the alleged victim or victim~~ has had contact with
7 body fluid of the defendant that constitutes a significant exposure. If the defendant
8 is convicted or found not guilty by reason of mental disease or defect, this paragraph
9 does not apply.

10 **SECTION 152.** 968.38 (4) (intro.) of the statutes is amended to read:

11 968.38 (4) (intro.) The court shall set a time for a hearing on the matter under
12 sub. (2) during the preliminary examination, if sub. (3) (a) applies; after the
13 defendant is bound over for trial and before a verdict is rendered, if sub. (3) (b)
14 applies; after conviction or a finding of not guilty by reason of mental disease or
15 defect, if sub. (3) (c) applies; or, subject to s. 971.13 (4), after the determination that
16 the defendant is not competent, if sub. (3) (d) applies. The court shall give the district
17 attorney and the defendant notice of the hearing at least 72 hours prior to the
18 hearing. The defendant may have counsel at the hearing, and counsel may examine
19 and cross-examine witnesses. If the court finds probable cause to believe that the
20 ~~defendant has significantly exposed the victim or alleged victim~~ has had contact with
21 body fluid of the defendant that constitutes a significant exposure, the court shall
22 order the defendant to submit to ~~a~~ an HIV test and to a test or a series of tests
23 ~~administered by a health care professional~~ to detect the presence of HIV, ~~antigen or~~
24 ~~nonantigenic products of HIV, an antibody to HIV or a sexually transmitted disease.~~
25 The tests shall be performed by a health care professional. The court shall require

1 the health care professional who performs the test to disclose the test results to the
2 defendant. ~~The court shall require the health care professional who performs the~~
3 ~~test, to refrain, notwithstanding s. 252.15 (4) (c), from making the test results part~~
4 of the defendant's permanent medical record, and to disclose the results of the test
5 to any of the following:

6 **SECTION 153.** 968.38 (5) (intro.) of the statutes is amended to read:

7 968.38 (5) (intro.) The court shall set a time for a hearing on the matter under
8 sub. (2m) during the preliminary examination, if sub. (3) (a) applies; after the
9 defendant is bound over for trial and before a verdict is rendered, if sub. (3) (b)
10 applies; after conviction or a finding of not guilty by reason of mental disease or
11 defect, if sub. (3) (c) applies; or, subject to s. 971.13 (4), after the determination that
12 the defendant is not competent, if sub. (3) (d) applies. The court shall give the district
13 attorney and the defendant notice of the hearing at least 72 hours prior to the
14 hearing. The defendant may have counsel at the hearing, and counsel may examine
15 and cross-examine witnesses. If the court finds probable cause to believe that the
16 act or alleged act of the defendant that constitutes a violation of s. 946.43 (2m) carried
17 a potential for transmitting a communicable disease to the victim or alleged victim
18 and involved the defendant's blood, semen, vomit, saliva, urine or feces or other
19 bodily substance of the defendant, the court shall order the defendant to submit to
20 a test or a series of tests administered by a health care professional to detect the
21 presence of any communicable disease that was potentially transmitted by the act
22 or alleged act of the defendant. The court shall require the health care professional
23 who performs the test to disclose the test results to the defendant. The court shall
24 require the health care professional who performs the test to refrain,
25 ~~notwithstanding s. 252.15 (4) (c), if applicable,~~ from making the test results part of

1 the defendant's permanent medical record and to disclose the results of the test to
2 any of the following:

3 **SECTION 154.** 973.017 (4) (a) 1m. of the statutes is created to read:

4 973.017 (4) (a) 1m. "HIV test" has the meaning given in s. 252.01 (2m).

5 **SECTION 155.** 973.017 (4) (b) 1. of the statutes is amended to read:

6 973.017 (4) (b) 1. At the time that he or she committed the serious sex crime,
7 the person convicted of committing the serious sex crime had a sexually transmitted
8 disease or acquired immunodeficiency syndrome or had had a positive HIV test ~~for~~
9 ~~the presence of HIV, antigen or nonantigenic products of HIV, or an antibody to HIV.~~

10 **SECTION 156.** 973.017 (4) (b) 2. of the statutes is amended to read:

11 973.017 (4) (b) 2. At the time that he or she committed the serious sex crime,
12 the person convicted of committing the serious sex crime knew that he or she had a
13 sexually transmitted disease or acquired immunodeficiency syndrome or that he or
14 she had had a positive HIV test ~~for the presence of HIV, antigen or nonantigenic~~
15 ~~products of HIV, or an antibody to HIV.~~

16 **SECTION 157. Initial applicability.**

17 (1) POSITIVE HIV TEST RESULT REPORTING. The treatment of section 252.15 (7)
18 (b) 5m. of the statutes, as created by this act, first applies to records of test results
19 reported to the state epidemiologist on the first day of the 4th month beginning after
20 the effective date of this subsection.

21 (END)

1

INS A:

Under the bill, the following conditions must be satisfied before a health care provider, blood bank, blood center, or plasma center (test administrator) may perform an HIV test on a person: 1) the test administrator must notify the person that the person may decline to have the test performed and that ~~that~~ test will be performed unless the person declines; 2) the test administrator must offer the person certain information about HIV, HIV test results, reporting of test results, treatment options for HIV, and AIDS service organizations and the services they provide; 3) the test administrator must provide the person an opportunity to ask questions and to decline the test; 4) and the test administrator must verify that the person understands that a test will be performed and that the person's decision regarding testing is not coerced or involuntary. In addition, the bill provides that a health care provider may not deny treatment or services to a person who declines to have an HIV test performed, and requires a health care provider that administers HIV tests to notify potential HIV test subjects of this prohibition against denying treatment or services. The bill further 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. The bill eliminates the requirement that consent for an HIV test must be in writing. The bill requires the Department of Health Services to provide test administrators materials that include the information and notices that test administrators must provide or offer to potential test subjects.

2

3

4

Ins B:

8. The bill requires the Department of Health Services to designate AIDS ~~services~~ organizations, which are defined in the bill as nonprofit corporations or public agencies that provide, or arrange for the provision of, comprehensive services to prevent HIV infection and comprehensive health and social services for persons who have an HIV infection.

5

6

Ins 10-2:

7

SECTION 1. 252.12 (1) (b) of the statutes is created to read:

8

252.12 (1) (b) "AIDS service organizations" means nonprofit corporations or

9

public agencies that provide, or arrange for the provision of, comprehensive services

10

to prevent HIV infection and comprehensive health and social services for persons

1 who have HIV infection, and that are designated as such by the department under
2 sub. (4).[✓]

3 (C3)

4 DESIGNATION OF AIDS SERVICE ORGANIZATIONS,

5 **Ins 10-19:**

6 **SECTION 2.** 252.12 (4) of the statutes is created to read:
7 252.12 (4)^{✓ ^}

8 The department shall designate AIDS service organizations and
9 specify the geographical area of the state in which they are designated to provide
10 services.[✓]

11 **Ins 12-25:**

12 **SECTION 3.** 252.14 (2m) of the statutes is created to read:
13 252.14 (2m)^{✓ ^}

14 If a person declines to be subjected to an HIV test, a health care
15 provider may not use the fact that the person declined an HIV test as a basis for
16 denying services or treatment, other than an HIV test, to the person.[✓]

17 **Ins 13-23:**

18 3. A parent or legal custodian of a person who is under 14 years of age.[✓]

19 4. For a person who is unable to communicate due to a medical condition, the
20 person's closet living relative or another individual with whom the person has a
21 meaningful social and emotional relationship.[✓]

22
23
24 **Ins 17-3:**

25 **SECTION 4.** 252.15 (2) (a) 4. of the statutes is repealed.[✓]

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Ins 23-21:

4

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

9

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 or description 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 AIDS services✓ organizations, as defined in s. 252.12 (1) (b),✓ and the services they provide to persons who have a positive HIV test result.✓

16

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.✓

22

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 HIV test.✓

24

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

7
8 **Ins 32-23:**

9 **SECTION 5.** [∧]252.15 (5) (a) 15. of the statutes is repealed.

10
11
12 **Ins 41-2:**

13 (e) AIDS services organizations, as defined in s. 252.12 (1) (b) and the services
14 they provide to persons who have a positive HIV test result.

Basford, Sarah

From: Palese, Anthony
Sent: Tuesday, January 12, 2010 11:01 AM
To: LRB.Legal
Subject: Draft Review: LRB 09-3246/1 Topic: HIV testing

Please Jacket LRB 09-3246/1 for the ASSEMBLY.