

1 | which an inmate will be tested for infectious disease,
2 | including human immunodeficiency virus pursuant to s.
3 | 775.0877, which procedure is consistent with guidelines of the
4 | Centers for Disease Control and Prevention and recommendations
5 | of the Correctional Medical Authority. It is not unlawful for
6 | the person receiving the test results to divulge the test
7 | results to the sheriff or chief correctional officer.

8 | (2)(a) Each county or municipality has the local
9 | option, if authorized by a majority of the county's or
10 | municipality's governing body, to participate in the testing
11 | program provided in this subsection. The county or municipal
12 | detention facility that lies within the authority of any
13 | participating county or municipality shall, consistent with s.
14 | 381.004(3), perform an HIV test as defined in s. 381.004(2) on
15 | each inmate who is to be released from the facility unless the
16 | facility knows that the inmate is HIV positive or unless,
17 | within 120 days before the release date, the inmate has been
18 | tested for HIV and does not request retesting. The required
19 | test must be performed not less than 30 days before the
20 | release date of the inmate. A test is not required under this
21 | paragraph if an inmate is released due to an emergency or a
22 | court order and the detention facility receives less than 30
23 | days' notice of the release date or if the inmate is
24 | transferred to the custody of the Department of Corrections
25 | for incarceration in the state correctional system.

26 | (b) If the county or municipal detention facility
27 | knows that an inmate who is to be released from the facility
28 | is HIV positive or has received a positive HIV test result,
29 | that facility shall, before the inmate is released:

30 | 1. Notify, consistent with s. 381.004(3), the
31 | Department of Health and the county health department in the

1 county where the inmate being released plans to reside of the
2 release date and HIV status of the inmate.

3 2. Provide special transitional assistance to the
4 inmate which must include:

5 a. Education on preventing the transmission of HIV to
6 others and on the importance of receiving followup medical
7 care and treatment.

8 b. A written, individualized discharge plan that
9 includes records of all laboratory and diagnostic test
10 results, medication and treatment information, and referrals
11 to and contacts with the county health department and local
12 primary medical care services for the treatment of HIV
13 infection which are available in the area where the inmate
14 plans to reside.

15 ~~(3)(2)~~ Except as otherwise provided in this
16 subsection, serologic blood test results obtained pursuant to
17 subsection (1) or subsection (2) are confidential and exempt
18 from the provisions of s. 119.07(1) and s. 24(a), Art. I of
19 the State Constitution. However, such results may be provided
20 to employees or officers of the sheriff or chief correctional
21 officer who are responsible for the custody and care of the
22 affected inmate and have a need to know such information, and
23 as provided in ss. 381.004(3), 775.0877, and 960.003. In
24 addition, upon request of the victim or the victim's legal
25 guardian, or the parent or legal guardian of the victim if the
26 victim is a minor, the results of any HIV test performed on an
27 inmate who has been arrested for any sexual offense involving
28 oral, anal, or vaginal penetration by, or union with, the
29 sexual organ of another, shall be disclosed to the victim or
30 the victim's legal guardian, or to the parent or legal
31 guardian of the victim if the victim is a minor. In such

1 cases, the county or municipal detention facility shall
2 furnish the test results to the Department of Health, which is
3 responsible for disclosing the results to public health
4 agencies as provided in s. 775.0877 and to the victim or the
5 victim's legal guardian, or the parent or legal guardian of
6 the victim if the victim is a minor, as provided in s.
7 960.003(3).

8 ~~(4)(3)~~ The results of any serologic blood test on an
9 inmate are a part of that inmate's permanent medical file.
10 Upon transfer of the inmate to any other correctional
11 facility, such file is also transferred, and all relevant
12 authorized persons must be notified of positive HIV test
13 results, as required in s. 775.0877.

14 (5) Notwithstanding any statute providing for a waiver
15 of sovereign immunity, the state, its agencies, or
16 subdivisions, and employees of the state, its agencies, or
17 subdivisions, are not liable to any person for negligently
18 causing death or personal injury arising out of complying with
19 this section.

20 Section 2. Subsection (3) of section 381.004, Florida
21 Statutes, is amended to read:

22 381.004 HIV testing.--

23 (3) ~~HUMAN IMMUNODEFICIENCY VIRUS TESTING;~~ INFORMED
24 CONSENT; RESULTS; COUNSELING; CONFIDENTIALITY.--

25 (a) No person in this state shall order a test
26 designed to identify the human immunodeficiency virus, or its
27 antigen or antibody, without first obtaining the informed
28 consent of the person upon whom the test is being performed,
29 except as specified in paragraph (h). Informed consent shall
30 be preceded by an explanation of the right to confidential
31 treatment of information identifying the subject of the test

1 | and the results of the test to the extent provided by law.
2 | Information shall also be provided on the fact that a positive
3 | HIV test result will be reported to the county health
4 | department with sufficient information to identify the test
5 | subject and on the availability and location of sites at which
6 | anonymous testing is performed. As required in paragraph
7 | (4)(c), each county health department shall maintain a list of
8 | sites at which anonymous testing is performed, including the
9 | locations, phone numbers, and hours of operation of the sites.
10 | Consent need not be in writing provided there is documentation
11 | in the medical record that the test has been explained and the
12 | consent has been obtained.

13 | (b) Except as provided in paragraph (h), informed
14 | consent must be obtained from a legal guardian or other person
15 | authorized by law when the person:

16 | 1. Is not competent, is incapacitated, or is otherwise
17 | unable to make an informed judgment; or

18 | 2. Has not reached the age of majority, except as
19 | provided in s. 384.30.

20 | (c) The person ordering the test or that person's
21 | designee shall ensure that all reasonable efforts are made to
22 | notify the test subject of his or her test result.

23 | Notification of a person with a positive test result shall
24 | include information on the availability of appropriate medical
25 | and support services, on the importance of notifying partners
26 | who may have been exposed, and on preventing transmission of
27 | HIV. Notification of a person with a negative test result
28 | shall include, as appropriate, information on preventing the
29 | transmission of HIV. When testing occurs in a hospital
30 | emergency department, detention facility, or other facility
31 | and the test subject has been released before being notified

1 of positive test results, informing the county health
2 department for that department to notify the test subject
3 fulfills this responsibility.

4 (d) A positive preliminary test result may not be
5 revealed to any person except in the following situations:

6 1. Preliminary test results may be released to
7 licensed physicians or the medical or nonmedical personnel
8 subject to the significant exposure for purposes of
9 subparagraphs (h)10., 11., and 12.

10 2. Preliminary test results may be released to health
11 care providers and to the person tested when decisions about
12 medical care or treatment of, or recommendation to, the person
13 tested and, in the case of an intrapartum or postpartum woman,
14 when care, treatment, or recommendations regarding her
15 newborn, cannot await the results of confirmatory testing.
16 Positive preliminary HIV test results may not be characterized
17 to the patient as a diagnosis of HIV infection. Justification
18 for the use of preliminary test results must be documented in
19 the medical record by the health care provider who ordered the
20 test.

21 3. The results of rapid testing technologies shall be
22 considered preliminary and may be released in accordance with
23 the manufacturer's instructions as approved by the federal
24 Food and Drug Administration.

25 4. Corroborating or confirmatory testing must be
26 conducted as followup to a positive preliminary test. Results
27 shall be communicated to the patient according to statute
28 regardless of the outcome. Except as provided in this section,
29 test results are confidential and exempt from the provisions
30 of s. 119.07(1).
31

1 (e) Except as provided in this section, the identity
2 of any person upon whom a test has been performed and test
3 results are confidential and exempt from the provisions of s.
4 119.07(1). No person who has obtained or has knowledge of a
5 test result pursuant to this section may disclose or be
6 compelled to disclose the identity of any person upon whom a
7 test is performed, or the results of such a test in a manner
8 which permits identification of the subject of the test,
9 except to the following persons:

10 1. The subject of the test or the subject's legally
11 authorized representative.

12 2. Any person, including third-party payors,
13 designated in a legally effective release of the test results
14 executed prior to or after the test by the subject of the test
15 or the subject's legally authorized representative. The test
16 subject may in writing authorize the disclosure of the test
17 subject's HIV test results to third party payors, who need not
18 be specifically identified, and to other persons to whom the
19 test subject subsequently issues a general release of medical
20 information. A general release without such prior written
21 authorization is not sufficient to release HIV test results.

22 3. An authorized agent or employee of a health
23 facility or health care provider if the health facility or
24 health care provider itself is authorized to obtain the test
25 results, the agent or employee participates in the
26 administration or provision of patient care or handles or
27 processes specimens of body fluids or tissues, and the agent
28 or employee has a need to know such information. The
29 department shall adopt a rule defining which persons have a
30 need to know pursuant to this subparagraph.

31

1 4. Health care providers consulting between themselves
2 or with health care facilities to determine diagnosis and
3 treatment. For purposes of this subparagraph, health care
4 providers shall include licensed health care professionals
5 employed by or associated with state, county, or municipal
6 detention facilities when such health care professionals are
7 acting exclusively for the purpose of providing diagnoses or
8 treatment of persons in the custody of such facilities.

9 5. The department, in accordance with rules for
10 reporting and controlling the spread of disease, as otherwise
11 provided by state law.

12 6. A health facility or health care provider which
13 procures, processes, distributes, or uses:

14 a. A human body part from a deceased person, with
15 respect to medical information regarding that person; or

16 b. Semen provided prior to July 6, 1988, for the
17 purpose of artificial insemination.

18 7. Health facility staff committees, for the purposes
19 of conducting program monitoring, program evaluation, or
20 service reviews pursuant to chapters 395 and 766.

21 8. Authorized medical or epidemiological researchers
22 who may not further disclose any identifying characteristics
23 or information.

24 9. A person allowed access by a court order which is
25 issued in compliance with the following provisions:

26 a. No court of this state shall issue such order
27 unless the court finds that the person seeking the test
28 results has demonstrated a compelling need for the test
29 results which cannot be accommodated by other means. In
30 assessing compelling need, the court shall weigh the need for
31 disclosure against the privacy interest of the test subject

1 and the public interest which may be disserved by disclosure
2 which deters blood, organ, and semen donation and future human
3 immunodeficiency virus-related testing or which may lead to
4 discrimination. This paragraph shall not apply to blood bank
5 donor records.

6 b. Pleadings pertaining to disclosure of test results
7 shall substitute a pseudonym for the true name of the subject
8 of the test. The disclosure to the parties of the subject's
9 true name shall be communicated confidentially in documents
10 not filed with the court.

11 c. Before granting any such order, the court shall
12 provide the individual whose test result is in question with
13 notice and a reasonable opportunity to participate in the
14 proceedings if he or she is not already a party.

15 d. Court proceedings as to disclosure of test results
16 shall be conducted in camera, unless the subject of the test
17 agrees to a hearing in open court or unless the court
18 determines that a public hearing is necessary to the public
19 interest and the proper administration of justice.

20 e. Upon the issuance of an order to disclose test
21 results, the court shall impose appropriate safeguards against
22 unauthorized disclosure which shall specify the persons who
23 may have access to the information, the purposes for which the
24 information shall be used, and appropriate prohibitions on
25 future disclosure.

26 10. A person allowed access by order of a judge of
27 compensation claims of the Division of Administrative
28 Hearings. A judge of compensation claims shall not issue such
29 order unless he or she finds that the person seeking the test
30 results has demonstrated a compelling need for the test
31 results which cannot be accommodated by other means.

1 11. Those employees of the department or of
2 child-placing or child-caring agencies or of family foster
3 homes, licensed pursuant to s. 409.175, who are directly
4 involved in the placement, care, control, or custody of such
5 test subject and who have a need to know such information;
6 adoptive parents of such test subject; or any adult custodian,
7 any adult relative, or any person responsible for the child's
8 welfare, if the test subject was not tested under subparagraph
9 (b)2. and if a reasonable attempt has been made to locate and
10 inform the legal guardian of a test result. The department
11 shall adopt a rule to implement this subparagraph.

12 12. Those employees of residential facilities or of
13 community-based care programs that care for developmentally
14 disabled persons, pursuant to chapter 393, who are directly
15 involved in the care, control, or custody of such test subject
16 and who have a need to know such information.

17 13. A health care provider involved in the delivery of
18 a child can note the mother's HIV test results in the child's
19 medical record.

20 14. Medical personnel or nonmedical personnel who have
21 been subject to a significant exposure during the course of
22 medical practice or in the performance of professional duties,
23 or individuals who are the subject of the significant exposure
24 as provided in subparagraphs (h)10.-12.

25 15. The medical examiner shall disclose positive HIV
26 test results to the department in accordance with rules for
27 reporting and controlling the spread of disease.

28 (f) Except as provided in this section, the identity
29 of a person upon whom a test has been performed is
30 confidential and exempt from the provisions of s. 119.07(1).
31 No person to whom the results of a test have been disclosed

1 | may disclose the test results to another person except as
2 | authorized by this subsection and by ss. 951.27 and 960.003.
3 | Whenever disclosure is made pursuant to this subsection, it
4 | shall be accompanied by a statement in writing which includes
5 | the following or substantially similar language: "This
6 | information has been disclosed to you from records whose
7 | confidentiality is protected by state law. State law
8 | prohibits you from making any further disclosure of such
9 | information without the specific written consent of the person
10 | to whom such information pertains, or as otherwise permitted
11 | by state law. A general authorization for the release of
12 | medical or other information is NOT sufficient for this
13 | purpose." An oral disclosure shall be accompanied by oral
14 | notice and followed by a written notice within 10 days, except
15 | that this notice shall not be required for disclosures made
16 | pursuant to subparagraphs (e)3. and 4.

17 | (g) Human immunodeficiency virus test results
18 | contained in the medical records of a hospital licensed under
19 | chapter 395 may be released in accordance with s. 395.3025
20 | without being subject to the requirements of subparagraph
21 | (e)2., subparagraph (e)9., or paragraph (f); provided the
22 | hospital has obtained written informed consent for the HIV
23 | test in accordance with provisions of this section.

24 | (h) Notwithstanding the provisions of paragraph (a),
25 | informed consent is not required:

26 | 1. When testing for sexually transmissible diseases is
27 | required by state or federal law, or by rule including the
28 | following situations:

29 | a. HIV testing pursuant to s. 796.08 of persons
30 | convicted of prostitution or of procuring another to commit
31 | prostitution.

1 b. HIV testing of inmates pursuant to s. 945.355 prior
2 to their release from prison by reason of parole, accumulation
3 of gain-time credits, or expiration of sentence.

4 c. Testing for HIV by a medical examiner in accordance
5 with s. 406.11.

6 d. HIV testing of pregnant women pursuant to s.
7 384.31.

8 e. HIV testing of inmates pursuant to s. 951.27 before
9 their release from a county or municipal detention facility.

10 2. Those exceptions provided for blood, plasma,
11 organs, skin, semen, or other human tissue pursuant to s.
12 381.0041.

13 3. For the performance of an HIV-related test by
14 licensed medical personnel in bona fide medical emergencies
15 when the test results are necessary for medical diagnostic
16 purposes to provide appropriate emergency care or treatment to
17 the person being tested and the patient is unable to consent,
18 as supported by documentation in the medical record.
19 Notification of test results in accordance with paragraph (c)
20 is required.

21 4. For the performance of an HIV-related test by
22 licensed medical personnel for medical diagnosis of acute
23 illness where, in the opinion of the attending physician,
24 obtaining informed consent would be detrimental to the
25 patient, as supported by documentation in the medical record,
26 and the test results are necessary for medical diagnostic
27 purposes to provide appropriate care or treatment to the
28 person being tested. Notification of test results in
29 accordance with paragraph (c) is required if it would not be
30 detrimental to the patient. This subparagraph does not
31

1 authorize the routine testing of patients for HIV infection
2 without informed consent.

3 5. When HIV testing is performed as part of an autopsy
4 for which consent was obtained pursuant to s. 872.04.

5 6. For the performance of an HIV test upon a defendant
6 pursuant to the victim's request in a prosecution for any type
7 of sexual battery where a blood sample is taken from the
8 defendant voluntarily, pursuant to court order for any
9 purpose, or pursuant to the provisions of s. 775.0877, s.
10 951.27, or s. 960.003; however, the results of any HIV test
11 performed shall be disclosed solely to the victim and the
12 defendant, except as provided in ss. 775.0877, 951.27, and
13 960.003.

14 7. When an HIV test is mandated by court order.

15 8. For epidemiological research pursuant to s.
16 381.0032, for research consistent with institutional review
17 boards created by 45 C.F.R. part 46, or for the performance of
18 an HIV-related test for the purpose of research, if the
19 testing is performed in a manner by which the identity of the
20 test subject is not known and may not be retrieved by the
21 researcher.

22 9. When human tissue is collected lawfully without the
23 consent of the donor for corneal removal as authorized by s.
24 765.5185 or enucleation of the eyes as authorized by s.
25 765.519.

26 10. For the performance of an HIV test upon an
27 individual who comes into contact with medical personnel in
28 such a way that a significant exposure has occurred during the
29 course of employment or within the scope of practice and where
30 a blood sample is available that was taken from that
31 individual voluntarily by medical personnel for other

1 | purposes. The term "medical personnel" includes a licensed or
2 | certified health care professional; an employee of a health
3 | care professional or health care facility; employees of a
4 | laboratory licensed under chapter 483; personnel of a blood
5 | bank or plasma center; a medical student or other student who
6 | is receiving training as a health care professional at a
7 | health care facility; and a paramedic or emergency medical
8 | technician certified by the department to perform life-support
9 | procedures under s. 401.23.

10 | a. Prior to performance of an HIV test on a
11 | voluntarily obtained blood sample, the individual from whom
12 | the blood was obtained shall be requested to consent to the
13 | performance of the test and to the release of the results.
14 | The individual's refusal to consent and all information
15 | concerning the performance of an HIV test and any HIV test
16 | result shall be documented only in the medical personnel's
17 | record unless the individual gives written consent to entering
18 | this information on the individual's medical record.

19 | b. Reasonable attempts to locate the individual and to
20 | obtain consent shall be made, and all attempts must be
21 | documented. If the individual cannot be found, an HIV test may
22 | be conducted on the available blood sample. If the individual
23 | does not voluntarily consent to the performance of an HIV
24 | test, the individual shall be informed that an HIV test will
25 | be performed, and counseling shall be furnished as provided in
26 | this section. However, HIV testing shall be conducted only
27 | after a licensed physician documents, in the medical record of
28 | the medical personnel, that there has been a significant
29 | exposure and that, in the physician's medical judgment, the
30 | information is medically necessary to determine the course of
31 | treatment for the medical personnel.

1 c. Costs of any HIV test of a blood sample performed
2 with or without the consent of the individual, as provided in
3 this subparagraph, shall be borne by the medical personnel or
4 the employer of the medical personnel. However, costs of
5 testing or treatment not directly related to the initial HIV
6 tests or costs of subsequent testing or treatment may not be
7 borne by the medical personnel or the employer of the medical
8 personnel.

9 d. In order to utilize the provisions of this
10 subparagraph, the medical personnel must either be tested for
11 HIV pursuant to this section or provide the results of an HIV
12 test taken within 6 months prior to the significant exposure
13 if such test results are negative.

14 e. A person who receives the results of an HIV test
15 pursuant to this subparagraph shall maintain the
16 confidentiality of the information received and of the persons
17 tested. Such confidential information is exempt from s.
18 119.07(1).

19 f. If the source of the exposure will not voluntarily
20 submit to HIV testing and a blood sample is not available, the
21 medical personnel or the employer of such person acting on
22 behalf of the employee may seek a court order directing the
23 source of the exposure to submit to HIV testing. A sworn
24 statement by a physician licensed under chapter 458 or chapter
25 459 that a significant exposure has occurred and that, in the
26 physician's medical judgment, testing is medically necessary
27 to determine the course of treatment constitutes probable
28 cause for the issuance of an order by the court. The results
29 of the test shall be released to the source of the exposure
30 and to the person who experienced the exposure.
31

1 11. For the performance of an HIV test upon an
2 individual who comes into contact with medical personnel in
3 such a way that a significant exposure has occurred during the
4 course of employment or within the scope of practice of the
5 medical personnel while the medical personnel provides
6 emergency medical treatment to the individual; or who comes
7 into contact with nonmedical personnel in such a way that a
8 significant exposure has occurred while the nonmedical
9 personnel provides emergency medical assistance during a
10 medical emergency. For the purposes of this subparagraph, a
11 medical emergency means an emergency medical condition outside
12 of a hospital or health care facility that provides physician
13 care. The test may be performed only during the course of
14 treatment for the medical emergency.

15 a. An individual who is capable of providing consent
16 shall be requested to consent to an HIV test prior to the
17 testing. The individual's refusal to consent, and all
18 information concerning the performance of an HIV test and its
19 result, shall be documented only in the medical personnel's
20 record unless the individual gives written consent to entering
21 this information on the individual's medical record.

22 b. HIV testing shall be conducted only after a
23 licensed physician documents, in the medical record of the
24 medical personnel or nonmedical personnel, that there has been
25 a significant exposure and that, in the physician's medical
26 judgment, the information is medically necessary to determine
27 the course of treatment for the medical personnel or
28 nonmedical personnel.

29 c. Costs of any HIV test performed with or without the
30 consent of the individual, as provided in this subparagraph,
31 shall be borne by the medical personnel or the employer of the

1 | medical personnel or nonmedical personnel. However, costs of
2 | testing or treatment not directly related to the initial HIV
3 | tests or costs of subsequent testing or treatment may not be
4 | borne by the medical personnel or the employer of the medical
5 | personnel or nonmedical personnel.

6 | d. In order to utilize the provisions of this
7 | subparagraph, the medical personnel or nonmedical personnel
8 | shall be tested for HIV pursuant to this section or shall
9 | provide the results of an HIV test taken within 6 months prior
10 | to the significant exposure if such test results are negative.

11 | e. A person who receives the results of an HIV test
12 | pursuant to this subparagraph shall maintain the
13 | confidentiality of the information received and of the persons
14 | tested. Such confidential information is exempt from s.
15 | 119.07(1).

16 | f. If the source of the exposure will not voluntarily
17 | submit to HIV testing and a blood sample was not obtained
18 | during treatment for the medical emergency, the medical
19 | personnel, the employer of the medical personnel acting on
20 | behalf of the employee, or the nonmedical personnel may seek a
21 | court order directing the source of the exposure to submit to
22 | HIV testing. A sworn statement by a physician licensed under
23 | chapter 458 or chapter 459 that a significant exposure has
24 | occurred and that, in the physician's medical judgment,
25 | testing is medically necessary to determine the course of
26 | treatment constitutes probable cause for the issuance of an
27 | order by the court. The results of the test shall be released
28 | to the source of the exposure and to the person who
29 | experienced the exposure.

30 | 12. For the performance of an HIV test by the medical
31 | examiner or attending physician upon an individual who expired

1 or could not be resuscitated while receiving emergency medical
2 assistance or care and who was the source of a significant
3 exposure to medical or nonmedical personnel providing such
4 assistance or care.

5 a. HIV testing may be conducted only after a licensed
6 physician documents in the medical record of the medical
7 personnel or nonmedical personnel that there has been a
8 significant exposure and that, in the physician's medical
9 judgment, the information is medically necessary to determine
10 the course of treatment for the medical personnel or
11 nonmedical personnel.

12 b. Costs of any HIV test performed under this
13 subparagraph may not be charged to the deceased or to the
14 family of the deceased person.

15 c. For the provisions of this subparagraph to be
16 applicable, the medical personnel or nonmedical personnel must
17 be tested for HIV under this section or must provide the
18 results of an HIV test taken within 6 months before the
19 significant exposure if such test results are negative.

20 d. A person who receives the results of an HIV test
21 pursuant to this subparagraph shall comply with paragraph (e).

22 13. For the performance of an HIV-related test
23 medically indicated by licensed medical personnel for medical
24 diagnosis of a hospitalized infant as necessary to provide
25 appropriate care and treatment of the infant when, after a
26 reasonable attempt, a parent cannot be contacted to provide
27 consent. The medical records of the infant shall reflect the
28 reason consent of the parent was not initially obtained. Test
29 results shall be provided to the parent when the parent is
30 located.

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1 14. For the performance of HIV testing conducted to
2 monitor the clinical progress of a patient previously
3 diagnosed to be HIV positive.

4 15. For the performance of repeated HIV testing
5 conducted to monitor possible conversion from a significant
6 exposure.

7 Section 3. This act shall take effect July 1, 2006.

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SENATE SUMMARY

11 Authorizes counties and municipalities to participate in
12 a program to test each inmate for HIV before the inmate
is released if the inmate's HIV status is unknown.
13 Requires that county and municipal detention facilities
14 notify the Department of Health and the county health
department in the county where the inmate plans to reside
15 following release if the inmate is HIV positive. Requires
16 the detention facilities to provide special transitional
assistance to an inmate who is HIV positive. Provides
17 that informed consent is not required for an HIV test of
an inmate before the inmate's release from a municipal or
18 county detention facility.

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