

By the Committee on Judiciary; and Senators Wilson, Miller,  
Lawson and Hill

590-2192-06

1                                   A bill to be entitled  
2           An act relating to the testing of inmates for  
3           HIV infection in county and municipal detention  
4           facilities; amending s. 951.27, F.S.;  
5           authorizing counties and municipalities to  
6           participate in a program to test each inmate  
7           for HIV before the inmate is released if the  
8           inmate's HIV status is unknown; providing  
9           certain exceptions; requiring that certain  
10          county and municipal detention facilities  
11          notify the Department of Health and the county  
12          health department in the county where the  
13          inmate plans to reside following release if the  
14          inmate is HIV positive; requiring certain  
15          detention facilities to provide special  
16          transitional assistance to an inmate who is HIV  
17          positive; providing for immunity for complying  
18          entities; amending s. 381.004, F.S.; providing  
19          that informed consent is not required for an  
20          HIV test of an inmate before the inmate's  
21          release from a municipal or county detention  
22          facility; providing an effective date.  
23  
24   Be It Enacted by the Legislature of the State of Florida:  
25  
26           Section 1.   Section 951.27, Florida Statutes, is  
27   amended to read:  
28           951.27   Blood tests of inmates.--  
29           (1)   Each county and each municipal detention facility  
30   shall have a written procedure developed, in consultation with  
31   the facility medical provider, establishing conditions under

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 sentenced inmate who is to be released from the facility  
16 | unless the facility knows that the inmate is HIV positive or  
17 | unless, within 120 days before the release date, the inmate  
18 | has been tested for HIV and does not request retesting. The  
19 | required test must be performed not less than 30 days before  
20 | the release date of the inmate. A test is not required under  
21 | this paragraph if an inmate is released due to an emergency or  
22 | a 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) Each county or municipal detention facility that  
27 | elects to participate in the testing program authorized in  
28 | paragraph (a) must comply with the requirements of this  
29 | paragraph. If the county or municipal detention facility knows  
30 | that an inmate who is to be released from the facility is HIV  
31 |

1 positive or has received a positive HIV test result, that  
2 facility shall, before the inmate is released:

3 1. Notify, consistent with s. 381.004(3), the  
4 Department of Health and the county health department in the  
5 county where the inmate being released plans to reside of the  
6 release date and HIV status of the inmate.

7 2. Provide special transitional assistance to the  
8 inmate which must include:

9 a. Education on preventing the transmission of HIV to  
10 others and on the importance of receiving followup medical  
11 care and treatment.

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

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

1 oral, anal, or vaginal penetration by, or union with, the  
2 sexual organ of another, shall be disclosed to the victim or  
3 the victim's legal guardian, or to the parent or legal  
4 guardian of the victim if the victim is a minor. In such  
5 cases, the county or municipal detention facility shall  
6 furnish the test results to the Department of Health, which is  
7 responsible for disclosing the results to public health  
8 agencies as provided in s. 775.0877 and to the victim or the  
9 victim's legal guardian, or the parent or legal guardian of  
10 the victim if the victim is a minor, as provided in s.  
11 960.003(3).

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

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

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

26 381.004 HIV testing.--

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

29 (a) No person in this state shall order a test  
30 designed to identify the human immunodeficiency virus, or its  
31 antigen or antibody, without first obtaining the informed

1 consent of the person upon whom the test is being performed,  
2 except as specified in paragraph (h). Informed consent shall  
3 be preceded by an explanation of the right to confidential  
4 treatment of information identifying the subject of the test  
5 and the results of the test to the extent provided by law.  
6 Information shall also be provided on the fact that a positive  
7 HIV test result will be reported to the county health  
8 department with sufficient information to identify the test  
9 subject and on the availability and location of sites at which  
10 anonymous testing is performed. As required in paragraph  
11 (4)(c), each county health department shall maintain a list of  
12 sites at which anonymous testing is performed, including the  
13 locations, phone numbers, and hours of operation of the sites.  
14 Consent need not be in writing provided there is documentation  
15 in the medical record that the test has been explained and the  
16 consent has been obtained.

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

- 20 1. Is not competent, is incapacitated, or is otherwise  
21 unable to make an informed judgment; or  
22 2. Has not reached the age of majority, except as  
23 provided in s. 384.30.

24 (c) The person ordering the test or that person's  
25 designee shall ensure that all reasonable efforts are made to  
26 notify the test subject of his or her test result.  
27 Notification of a person with a positive test result shall  
28 include information on the availability of appropriate medical  
29 and support services, on the importance of notifying partners  
30 who may have been exposed, and on preventing transmission of  
31 HIV. Notification of a person with a negative test result

1 shall include, as appropriate, information on preventing the  
2 transmission of HIV. When testing occurs in a hospital  
3 emergency department, detention facility, or other facility  
4 and the test subject has been released before being notified  
5 of positive test results, informing the county health  
6 department for that department to notify the test subject  
7 fulfills this responsibility.

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

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

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

25 3. The results of rapid testing technologies shall be  
26 considered preliminary and may be released in accordance with  
27 the manufacturer's instructions as approved by the federal  
28 Food and Drug Administration.

29 4. Corroborating or confirmatory testing must be  
30 conducted as followup to a positive preliminary test. Results  
31 shall be communicated to the patient according to statute

1 | regardless of the outcome. Except as provided in this section,  
2 | test results are confidential and exempt from the provisions  
3 | of s. 119.07(1).

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

13 |             1. The subject of the test or the subject's legally  
14 | authorized representative.

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

25 |             3. An authorized agent or employee of a health  
26 | facility or health care provider if the health facility or  
27 | health care provider itself is authorized to obtain the test  
28 | results, the agent or employee participates in the  
29 | administration or provision of patient care or handles or  
30 | processes specimens of body fluids or tissues, and the agent  
31 | or employee has a need to know such information. The

1 department shall adopt a rule defining which persons have a  
2 need to know pursuant to this subparagraph.

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

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

14           6. A health facility or health care provider which  
15 procures, processes, distributes, or uses:

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

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

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

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

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

28           a. No court of this state shall issue such order  
29 unless the court 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. In



1 assessing compelling need, the court shall weigh the need for  
2 disclosure against the privacy interest of the test subject  
3 and the public interest which may be disserved by disclosure  
4 which deters blood, organ, and semen donation and future human  
5 immunodeficiency virus-related testing or which may lead to  
6 discrimination. This paragraph shall not apply to blood bank  
7 donor records.

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

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

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

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

28 10. A person allowed access by order of a judge of  
29 compensation claims of the Division of Administrative  
30 Hearings. A judge of compensation claims shall not issue such  
31 order unless he or she finds that the person seeking the test

1 results has demonstrated a compelling need for the test  
2 results which cannot be accommodated by other means.

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

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

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

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

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

30           (f) Except as provided in this section, the identity  
31 of a person upon whom a test has been performed is

1 confidential and exempt from the provisions of s. 119.07(1).  
2 No person to whom the results of a test have been disclosed  
3 may disclose the test results to another person except as  
4 authorized by this subsection and by ss. 951.27 and 960.003.  
5 Whenever disclosure is made pursuant to this subsection, it  
6 shall be accompanied by a statement in writing which includes  
7 the following or substantially similar language: "This  
8 information has been disclosed to you from records whose  
9 confidentiality is protected by state law. State law  
10 prohibits you from making any further disclosure of such  
11 information without the specific written consent of the person  
12 to whom such information pertains, or as otherwise permitted  
13 by state law. A general authorization for the release of  
14 medical or other information is NOT sufficient for this  
15 purpose." An oral disclosure shall be accompanied by oral  
16 notice and followed by a written notice within 10 days, except  
17 that this notice shall not be required for disclosures made  
18 pursuant to subparagraphs (e)3. and 4.

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

26 (h) Notwithstanding the provisions of paragraph (a),  
27 informed consent is not required:

28 1. When testing for sexually transmissible diseases is  
29 required by state or federal law, or by rule including the  
30 following situations:  
31

1 a. HIV testing pursuant to s. 796.08 of persons  
2 convicted of prostitution or of procuring another to commit  
3 prostitution.

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

7 c. Testing for HIV by a medical examiner in accordance  
8 with s. 406.11.

9 d. HIV testing of pregnant women pursuant to s.  
10 384.31.

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

13 2. Those exceptions provided for blood, plasma,  
14 organs, skin, semen, or other human tissue pursuant to s.  
15 381.0041.

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

24 4. For the performance of an HIV-related test by  
25 licensed medical personnel for medical diagnosis of acute  
26 illness where, in the opinion of the attending physician,  
27 obtaining informed consent would be detrimental to the  
28 patient, as supported by documentation in the medical record,  
29 and the test results are necessary for medical diagnostic  
30 purposes to provide appropriate care or treatment to the  
31 person being tested. Notification of test results in

1 accordance with paragraph (c) is required if it would not be  
2 detrimental to the patient. This subparagraph does not  
3 authorize the routine testing of patients for HIV infection  
4 without informed consent.

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

7           6. For the performance of an HIV test upon a defendant  
8 pursuant to the victim's request in a prosecution for any type  
9 of sexual battery where a blood sample is taken from the  
10 defendant voluntarily, pursuant to court order for any  
11 purpose, or pursuant to the provisions of s. 775.0877, s.  
12 951.27, or s. 960.003; however, the results of any HIV test  
13 performed shall be disclosed solely to the victim and the  
14 defendant, except as provided in ss. 775.0877, 951.27, and  
15 960.003.

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

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

24           9. When human tissue is collected lawfully without the  
25 consent of the donor for corneal removal as authorized by s.  
26 765.5185 or enucleation of the eyes as authorized by s.  
27 765.519.

28           10. For the performance of an HIV test upon an  
29 individual who comes into contact with medical personnel in  
30 such a way that a significant exposure has occurred during the  
31 course of employment or within the scope of practice and where

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

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

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

1 information is medically necessary to determine the course of  
2 treatment for the medical personnel.

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

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

16 e. A person who receives the results of an HIV test  
17 pursuant to this subparagraph shall maintain the  
18 confidentiality of the information received and of the persons  
19 tested. Such confidential information is exempt from s.  
20 119.07(1).

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

1 of the test shall be released to the source of the exposure  
2 and to the person who experienced the exposure.

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

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

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

31



1           c. Costs of any HIV test performed with or without the  
2 consent of the individual, as provided in this subparagraph,  
3 shall be borne by the medical personnel or the employer of the  
4 medical personnel or nonmedical 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 or nonmedical personnel.

9           d. In order to utilize the provisions of this  
10 subparagraph, the medical personnel or nonmedical personnel  
11 shall be tested for HIV pursuant to this section or shall  
12 provide the results of an HIV test taken within 6 months prior  
13 to the significant exposure 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 was not obtained  
21 during treatment for the medical emergency, the medical  
22 personnel, the employer of the medical personnel acting on  
23 behalf of the employee, or the nonmedical personnel may seek a  
24 court order directing the source of the exposure to submit to  
25 HIV testing. A sworn statement by a physician licensed under  
26 chapter 458 or chapter 459 that a significant exposure has  
27 occurred and that, in the physician's medical judgment,  
28 testing is medically necessary to determine the course of  
29 treatment constitutes probable cause for the issuance of an  
30 order by the court. The results of the test shall be released  
31

1 | to the source of the exposure and to the person who  
2 | experienced the exposure.

3 |         12. For the performance of an HIV test by the medical  
4 | examiner or attending physician upon an individual who expired  
5 | or could not be resuscitated while receiving emergency medical  
6 | assistance or care and who was the source of a significant  
7 | exposure to medical or nonmedical personnel providing such  
8 | assistance or care.

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

16 |             b. Costs of any HIV test performed under this  
17 | subparagraph may not be charged to the deceased or to the  
18 | family of the deceased person.

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

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

26 |         13. For the performance of an HIV-related test  
27 | medically indicated by licensed medical personnel for medical  
28 | diagnosis of a hospitalized infant as necessary to provide  
29 | appropriate care and treatment of the infant when, after a  
30 | reasonable attempt, a parent cannot be contacted to provide  
31 | consent. The medical records of the infant shall reflect the

1 | reason consent of the parent was not initially obtained. Test  
2 | results shall be provided to the parent when the parent is  
3 | located.

4 |         14. For the performance of HIV testing conducted to  
5 | monitor the clinical progress of a patient previously  
6 | diagnosed to be HIV positive.

7 |         15. For the performance of repeated HIV testing  
8 | conducted to monitor possible conversion from a significant  
9 | exposure.

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

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12 |                 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
13 |                         COMMITTEE SUBSTITUTE FOR  
14 |                                 Senate Bill 796

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15 | The substantial changes made by the committee substitute to  
16 | the underlying bill:

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17 | -- Provide that the HIV testing program only applies to  
18 | sentenced inmates; and

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19 | -- Clarify that only those local facilities in counties and  
20 | municipalities participating in the HIV testing program  
21 | must provide transitional assistance and notify the  
22 | Department of Health of an HIV diagnosis.

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