

By Senator Wilson

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1 A bill to be entitled

2 An act relating to the testing of children for infectious  
3 diseases in certain juvenile detention facilities or  
4 juvenile assessment centers; creating s. 985.1351, F.S.;  
5 requiring each juvenile assessment center or juvenile  
6 detention facility to have a written procedure regarding  
7 the testing of juveniles for infectious diseases;  
8 requiring the Department of Juvenile Justice to designate  
9 certain counties, if approved by the county's governing  
10 body, to participate in a program to test each juvenile  
11 for HIV who is referred to or who is under the supervision  
12 of the department; requiring certain juvenile assessment  
13 centers or juvenile detention facilities to comply with  
14 certain requirements regarding the release of juveniles  
15 who are HIV positive; requiring the disclosure of a  
16 certain juveniles' HIV tests under certain circumstances;  
17 providing that any serologic blood test results of a  
18 juvenile is part of the juvenile's permanent medical file;  
19 providing sovereign immunity to certain state agencies or  
20 employees for negligently causing death or personal injury  
21 for complying with the act; amending s. 381.004, F.S.;  
22 providing that informed consent is not required for an HIV  
23 test of a juvenile which is performed during the intake  
24 process at a juvenile assessment center or juvenile  
25 detention facility; providing an effective date.

26  
27 Be It Enacted by the Legislature of the State of Florida:

28  
29 Section 1. Section 985.1351, Florida Statutes, is created

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30 to read:

31 985.1351 Blood test of a child referred to or under the  
32 supervision of the department.--

33 (1) Each juvenile assessment center or juvenile detention  
34 facility shall have a written procedure, developed in  
35 consultation with a facility medical provider, establishing  
36 conditions under which a child who is referred to or under the  
37 supervision of the department will be tested for infectious  
38 diseases, including human immunodeficiency virus, which procedure  
39 must be consistent with guidelines of the Centers for Disease  
40 Control and Prevention and recommendations of the Correctional  
41 Medical Authority. It is not unlawful for the person receiving  
42 the test results to divulge the test results to the child's  
43 parents, guardian, or legal custodian or to the juvenile  
44 probation officer assigned to the child.

45 (2) (a) The Department of Health shall designate two  
46 counties having a population of 1.2 million or more and five  
47 counties having a population of fewer than 1.2 million to  
48 participate in the testing program provided in this subsection,  
49 if participation in the testing program is authorized by a  
50 majority of the county's governing body. Each juvenile assessment  
51 center or juvenile detention facility that lies within the  
52 authority of any participating county shall, consistent with s.  
53 381.004(3), perform an HIV test as defined in s. 381.004(2)  
54 during the intake process on each child who is referred to or is  
55 under the supervision of the department unless the center or  
56 facility knows that the child is HIV positive. The required test  
57 must be performed within 20 days after the intake date of the  
58 child. A test is not required under this paragraph if a child who

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59 is taken into custody is released within 10 days to his or her  
60 parent, guardian, legal custodian, or, if the child's parent,  
61 guardian, or legal custodian is not available, unwilling, or  
62 unable to provide supervision for the child, to any responsible  
63 adult pursuant to s. 985.115(2) (a).

64 (b) Each juvenile assessment center or juvenile detention  
65 facility in a county that participates in the testing program  
66 authorized in paragraph (a) must comply with the requirements of  
67 this paragraph. If the assessment center or detention facility  
68 knows that a child who is to be released from the center or  
69 facility is HIV positive or has received a positive HIV test  
70 result, that center or facility shall, before the child is  
71 released:

72 1. Notify, consistent with s. 381.004(3), the Department of  
73 Health and the county health department in the county where the  
74 child being released plans to reside of the release date and HIV  
75 status of the child.

76 2. Provide special transitional assistance to the child and  
77 his or her parents, guardian, or legal custodian, which must  
78 include:

79 a. Education on preventing the transmission of HIV to  
80 others and on the importance of receiving followup medical care  
81 and treatment.

82 b. A written, individualized discharge plan that includes  
83 records of all laboratory and diagnostic test results, medication  
84 and treatment information, and referrals to and contacts with the  
85 county health department and local primary medical care services  
86 for the treatment of HIV infection which are available in the  
87 area where the child plans to reside.

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88       (3) Upon request of the victim or the victim's legal  
89 guardian, or the parent or legal guardian of the victim if the  
90 victim is a minor, the results of any HIV test performed on a  
91 child who has been arrested for any sexual offense involving  
92 oral, anal, or vaginal penetration by, or union with, the sexual  
93 organ of another, shall be disclosed to the victim or the  
94 victim's legal guardian, or to the parent or legal guardian of  
95 the victim if the victim is a minor. In such cases, the juvenile  
96 assessment center or juvenile detention facility shall furnish  
97 the test results to the Department of Health, which shall  
98 disclose the results to public health agencies as provided in s.  
99 775.0877 and to the victim or the victim's legal guardian, or the  
100 parent or legal guardian of the victim if the victim is a minor,  
101 as provided in s. 960.003(3).

102       (4) The results of any serologic blood test of a child are  
103 a part of that child's permanent medical file. Upon transfer of  
104 the child to any other juvenile assessment center or juvenile  
105 detention facility, such file shall also be transferred and all  
106 relevant authorized persons must be notified of positive HIV test  
107 results as required in s. 775.0877.

108       (5) Notwithstanding any law providing for a waiver of  
109 sovereign immunity, the state, its agencies, or subdivisions, and  
110 employees of the state, its agencies, or subdivisions, are not  
111 liable to any person for negligently causing death or personal  
112 injury arising out of complying with this section.

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

115       381.004 HIV testing.--

116       (3) ~~HUMAN IMMUNODEFICIENCY VIRUS TESTING;~~ INFORMED CONSENT;

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117 RESULTS; COUNSELING; CONFIDENTIALITY.--

118 (a) A ~~No~~ person in this state may not ~~shall~~ order a test  
119 designed to identify the human immunodeficiency virus, or its  
120 antigen or antibody, without first obtaining the informed consent  
121 of the person upon whom the test is being performed, except as  
122 specified in paragraph (h). Informed consent shall be preceded by  
123 an explanation of the right to confidential treatment of  
124 information identifying the subject of the test and the results  
125 of the test to the extent provided by law. Information shall also  
126 be provided on the fact that a positive HIV test result will be  
127 reported to the county health department with sufficient  
128 information to identify the test subject and on the availability  
129 and location of sites at which anonymous testing is performed. As  
130 required in paragraph (4)(c), each county health department shall  
131 maintain a list of sites at which anonymous testing is performed,  
132 including the locations, phone numbers, and hours of operation of  
133 the sites. Consent need not be in writing provided there is  
134 documentation in the medical record that the test has been  
135 explained and the consent has been obtained.

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

139 1. Is not competent, is incapacitated, or is otherwise  
140 unable to make an informed judgment; or

141 2. Has not reached the age of majority, except as provided  
142 in s. 384.30.

143 (c) The person ordering the test or that person's designee  
144 shall ensure that all reasonable efforts are made to notify the  
145 test subject of his or her test result. Notification of a person

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146 with a positive test result shall include information on the  
147 availability of appropriate medical and support services, on the  
148 importance of notifying partners who may have been exposed, and  
149 on preventing transmission of HIV. Notification of a person with  
150 a negative test result shall include, as appropriate, information  
151 on preventing the transmission of HIV. When testing occurs in a  
152 hospital emergency department, detention facility, or other  
153 facility and the test subject has been released before being  
154 notified of positive test results, informing the county health  
155 department for that department to notify the test subject  
156 fulfills this responsibility.

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

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

163 2. Preliminary test results may be released to health care  
164 providers and to the person tested when decisions about medical  
165 care or treatment of, or recommendation to, the person tested  
166 and, in the case of an intrapartum or postpartum woman, when  
167 care, treatment, or recommendations regarding her newborn, cannot  
168 await the results of confirmatory testing. Positive preliminary  
169 HIV test results may not be characterized to the patient as a  
170 diagnosis of HIV infection. Justification for the use of  
171 preliminary test results must be documented in the medical record  
172 by the health care provider who ordered the test.

173 3. The results of rapid testing technologies shall be  
174 considered preliminary and may be released in accordance with the

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175 manufacturer's instructions as approved by the federal Food and  
176 Drug Administration.

177 4. Corroborating or confirmatory testing must be conducted  
178 as followup to a positive preliminary test. Results shall be  
179 communicated to the patient according to statute regardless of  
180 the outcome. Except as provided in this section, test results are  
181 confidential and exempt from the provisions of s. 119.07(1).

182 (e) Except as provided in this section, the identity of any  
183 person upon whom a test has been performed and test results are  
184 confidential and exempt from the provisions of s. 119.07(1). ~~A No~~  
185 person who has obtained or has knowledge of a test result  
186 pursuant to this section may not disclose or be compelled to  
187 disclose the identity of any person upon whom a test is  
188 performed, or the results of such a test in a manner that ~~which~~  
189 permits identification of the subject of the test, except to the  
190 following persons:

191 1. The subject of the test or the subject's legally  
192 authorized representative.

193 2. Any person, including third-party payors, designated in  
194 a legally effective release of the test results executed prior to  
195 or after the test by the subject of the test or the subject's  
196 legally authorized representative. The test subject may in  
197 writing authorize the disclosure of the test subject's HIV test  
198 results to third party payors, who need not be specifically  
199 identified, and to other persons to whom the test subject  
200 subsequently issues a general release of medical information. A  
201 general release without such prior written authorization is not  
202 sufficient to release HIV test results.

203 3. An authorized agent or employee of a health facility or

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204 health care provider if the health facility or health care  
205 provider itself is authorized to obtain the test results, the  
206 agent or employee participates in the administration or provision  
207 of patient care or handles or processes specimens of body fluids  
208 or tissues, and the agent or employee has a need to know such  
209 information. The department shall adopt a rule defining which  
210 persons have a need to know pursuant to this subparagraph.

211 4. Health care providers consulting between themselves or  
212 with health care facilities to determine diagnosis and treatment.  
213 For purposes of this subparagraph, health care providers shall  
214 include licensed health care professionals employed by or  
215 associated with state, county, or municipal detention facilities  
216 when such health care professionals are acting exclusively for  
217 the purpose of providing diagnoses or treatment of persons in the  
218 custody of such facilities.

219 5. The department, in accordance with rules for reporting  
220 and controlling the spread of disease, as otherwise provided by  
221 state law.

222 6. A health facility or health care provider which  
223 procures, processes, distributes, or uses:

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

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

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

231 8. Authorized medical or epidemiological researchers who  
232 may not further disclose any identifying characteristics or



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233 information.

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

236 a. A ~~No~~ court of this state may not ~~shall~~ issue such order  
237 unless the court finds that the person seeking the test results  
238 has demonstrated a compelling need for the test results which  
239 cannot be accommodated by other means. In assessing compelling  
240 need, the court shall weigh the need for disclosure against the  
241 privacy interest of the test subject and the public interest  
242 which may be disserved by disclosure which deters blood, organ,  
243 and semen donation and future human immunodeficiency virus-  
244 related testing or which may lead to discrimination. This  
245 paragraph shall not apply to blood bank donor records.

246 b. Pleadings pertaining to disclosure of test results shall  
247 substitute a pseudonym for the true name of the subject of the  
248 test. The disclosure to the parties of the subject's true name  
249 shall be communicated confidentially in documents not filed with  
250 the court.

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

255 d. Court proceedings as to disclosure of test results shall  
256 be conducted in camera, unless the subject of the test agrees to  
257 a hearing in open court or unless the court determines that a  
258 public hearing is necessary to the public interest and the proper  
259 administration of justice.

260 e. Upon the issuance of an order to disclose test results,  
261 the court shall impose appropriate safeguards against

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262 | unauthorized disclosure which shall specify the persons who may  
263 | have access to the information, the purposes for which the  
264 | information shall be used, and appropriate prohibitions on future  
265 | disclosure.

266 |       10. A person allowed access by order of a judge of  
267 | compensation claims of the Division of Administrative Hearings. A  
268 | judge of compensation claims shall not issue such order unless he  
269 | or she finds that the person seeking the test results has  
270 | demonstrated a compelling need for the test results which cannot  
271 | be accommodated by other means.

272 |       11. Those employees of the department or of child-placing  
273 | or child-caring agencies or of family foster homes, licensed  
274 | pursuant to s. 409.175, who are directly involved in the  
275 | placement, care, control, or custody of such test subject and who  
276 | have a need to know such information; adoptive parents of such  
277 | test subject; or any adult custodian, any adult relative, or any  
278 | person responsible for the child's welfare, if the test subject  
279 | was not tested under subparagraph (b)2. and if a reasonable  
280 | attempt has been made to locate and inform the legal guardian of  
281 | a test result. The department shall adopt a rule to implement  
282 | this subparagraph.

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

288 |       13. A health care provider involved in the delivery of a  
289 | child can note the mother's HIV test results in the child's  
290 | medical record.

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291 14. Medical personnel or nonmedical personnel who have been  
292 subject to a significant exposure during the course of medical  
293 practice or in the performance of professional duties, or  
294 individuals who are the subject of the significant exposure as  
295 provided in subparagraphs (h)10.-12.

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

299 (f) Except as provided in this section, the identity of a  
300 person upon whom a test has been performed is confidential and  
301 exempt from the provisions of s. 119.07(1). No person to whom  
302 the results of a test have been disclosed may disclose the test  
303 results to another person except as authorized by this subsection  
304 and by ss. 951.27 and 960.003. Whenever disclosure is made  
305 pursuant to this subsection, it shall be accompanied by a  
306 statement in writing which includes the following or  
307 substantially similar language: "This information has been  
308 disclosed to you from records whose confidentiality is protected  
309 by state law. State law prohibits you from making any further  
310 disclosure of such information without the specific written  
311 consent of the person to whom such information pertains, or as  
312 otherwise permitted by state law. A general authorization for  
313 the release of medical or other information is NOT sufficient for  
314 this purpose." An oral disclosure shall be accompanied by oral  
315 notice and followed by a written notice within 10 days, except  
316 that this notice shall not be required for disclosures made  
317 pursuant to subparagraphs (e)3. and 4.

318 (g) Human immunodeficiency virus test results contained in  
319 the medical records of a hospital licensed under chapter 395 may

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320 be released in accordance with s. 395.3025 without being subject  
321 to the requirements of subparagraph (e)2., subparagraph (e)9., or  
322 paragraph (f); provided the hospital has obtained written  
323 informed consent for the HIV test in accordance with provisions  
324 of this section.

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

327 1. When testing for sexually transmissible diseases is  
328 required by state or federal law, or by rule including the  
329 following situations:

330 a. HIV testing pursuant to s. 796.08 of persons convicted  
331 of prostitution or of procuring another to commit prostitution.

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

335 c. Testing for HIV by a medical examiner in accordance with  
336 s. 406.11.

337 d. HIV testing of pregnant women pursuant to s. 384.31.

338 e. HIV testing of children who are referred to or who are  
339 under the supervision of the Department of Juvenile Justice under  
340 s. 985.1351 during the intake process at a juvenile assessment  
341 center or juvenile detention facility.

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

344 3. For the performance of an HIV-related test by licensed  
345 medical personnel in bona fide medical emergencies when the test  
346 results are necessary for medical diagnostic purposes to provide  
347 appropriate emergency care or treatment to the person being  
348 tested and the patient is unable to consent, as supported by

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349 | documentation in the medical record. Notification of test results  
350 | in accordance with paragraph (c) is required.

351 |         4. For the performance of an HIV-related test by licensed  
352 | medical personnel for medical diagnosis of acute illness where,  
353 | in the opinion of the attending physician, obtaining informed  
354 | consent would be detrimental to the patient, as supported by  
355 | documentation in the medical record, and the test results are  
356 | necessary for medical diagnostic purposes to provide appropriate  
357 | care or treatment to the person being tested. Notification of  
358 | test results in accordance with paragraph (c) is required if it  
359 | would not be detrimental to the patient. This subparagraph does  
360 | not authorize the routine testing of patients for HIV infection  
361 | without informed consent.

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

364 |         6. For the performance of an HIV test upon a defendant  
365 | pursuant to the victim's request in a prosecution for any type of  
366 | sexual battery where a blood sample is taken from the defendant  
367 | voluntarily, pursuant to court order for any purpose, or pursuant  
368 | to the provisions of s. 775.0877, s. 951.27, or s. 960.003;  
369 | however, the results of any HIV test performed shall be disclosed  
370 | solely to the victim and the defendant, except as provided in ss.  
371 | 775.0877, 951.27, and 960.003.

372 |         7. When an HIV test is mandated by court order.

373 |         8. For epidemiological research pursuant to s. 381.0032,  
374 | for research consistent with institutional review boards created  
375 | by 45 C.F.R. part 46, or for the performance of an HIV-related  
376 | test for the purpose of research, if the testing is performed in  
377 | a manner by which the identity of the test subject is not known

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378 and may not be retrieved by the researcher.

379 9. When human tissue is collected lawfully without the  
380 consent of the donor for corneal removal as authorized by s.  
381 765.5185 or enucleation of the eyes as authorized by s. 765.519.

382 10. For the performance of an HIV test upon an individual  
383 who comes into contact with medical personnel in such a way that  
384 a significant exposure has occurred during the course of  
385 employment or within the scope of practice and where a blood  
386 sample is available that was taken from that individual  
387 voluntarily by medical personnel for other purposes. The term  
388 "medical personnel" includes a licensed or certified health care  
389 professional; an employee of a health care professional or health  
390 care facility; employees of a laboratory licensed under chapter  
391 483; personnel of a blood bank or plasma center; a medical  
392 student or other student who is receiving training as a health  
393 care professional at a health care facility; and a paramedic or  
394 emergency medical technician certified by the department to  
395 perform life-support procedures under s. 401.23.

396 a. Prior to performance of an HIV test on a voluntarily  
397 obtained blood sample, the individual from whom the blood was  
398 obtained shall be requested to consent to the performance of the  
399 test and to the release of the results. The individual's refusal  
400 to consent and all information concerning the performance of an  
401 HIV test and any HIV test result shall be documented only in the  
402 medical personnel's record unless the individual gives written  
403 consent to entering this information on the individual's medical  
404 record.

405 b. Reasonable attempts to locate the individual and to  
406 obtain consent shall be made, and all attempts must be

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407 | documented. If the individual cannot be found, an HIV test may be  
408 | conducted on the available blood sample. If the individual does  
409 | not voluntarily consent to the performance of an HIV test, the  
410 | individual shall be informed that an HIV test will be performed,  
411 | and counseling shall be furnished as provided in this section.  
412 | However, HIV testing shall be conducted only after a licensed  
413 | physician documents, in the medical record of the medical  
414 | personnel, that there has been a significant exposure and that,  
415 | in the physician's medical judgment, the information is medically  
416 | necessary to determine the course of treatment for the medical  
417 | personnel.

418 |       c. Costs of any HIV test of a blood sample performed with  
419 | or without the consent of the individual, as provided in this  
420 | subparagraph, shall be borne by the medical personnel or the  
421 | employer of the medical personnel. However, costs of testing or  
422 | treatment not directly related to the initial HIV tests or costs  
423 | of subsequent testing or treatment may not be borne by the  
424 | medical personnel or the employer of the medical personnel.

425 |       d. In order to utilize the provisions of this subparagraph,  
426 | the medical personnel must either be tested for HIV pursuant to  
427 | this section or provide the results of an HIV test taken within 6  
428 | months prior to the significant exposure if such test results are  
429 | negative.

430 |       e. A person who receives the results of an HIV test  
431 | pursuant to this subparagraph shall maintain the confidentiality  
432 | of the information received and of the persons tested. Such  
433 | confidential information is exempt from s. 119.07(1).

434 |       f. If the source of the exposure will not voluntarily  
435 | submit to HIV testing and a blood sample is not available, the

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436 medical personnel or the employer of such person acting on behalf  
437 of the employee may seek a court order directing the source of  
438 the exposure to submit to HIV testing. A sworn statement by a  
439 physician licensed under chapter 458 or chapter 459 that a  
440 significant exposure has occurred and that, in the physician's  
441 medical judgment, testing is medically necessary to determine the  
442 course of treatment constitutes probable cause for the issuance  
443 of an order by the court. The results of the test shall be  
444 released to the source of the exposure and to the person who  
445 experienced the exposure.

446 11. For the performance of an HIV test upon an individual  
447 who comes into contact with medical personnel in such a way that  
448 a significant exposure has occurred during the course of  
449 employment or within the scope of practice of the medical  
450 personnel while the medical personnel provides emergency medical  
451 treatment to the individual; or who comes into contact with  
452 nonmedical personnel in such a way that a significant exposure  
453 has occurred while the nonmedical personnel provides emergency  
454 medical assistance during a medical emergency. For the purposes  
455 of this subparagraph, a medical emergency means an emergency  
456 medical condition outside of a hospital or health care facility  
457 that provides physician care. The test may be performed only  
458 during the course of treatment for the medical emergency.

459 a. An individual who is capable of providing consent shall  
460 be requested to consent to an HIV test prior to the testing. The  
461 individual's refusal to consent, and all information concerning  
462 the performance of an HIV test and its result, shall be  
463 documented only in the medical personnel's record unless the  
464 individual gives written consent to entering this information on



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465 the individual's medical record.

466 b. HIV testing shall be conducted only after a licensed  
467 physician documents, in the medical record of the medical  
468 personnel or nonmedical personnel, that there has been a  
469 significant exposure and that, in the physician's medical  
470 judgment, the information is medically necessary to determine the  
471 course of treatment for the medical personnel or nonmedical  
472 personnel.

473 c. Costs of any HIV test performed with or without the  
474 consent of the individual, as provided in this subparagraph,  
475 shall be borne by the medical personnel or the employer of the  
476 medical personnel or nonmedical personnel. However, costs of  
477 testing or treatment not directly related to the initial HIV  
478 tests or costs of subsequent testing or treatment may not be  
479 borne by the medical personnel or the employer of the medical  
480 personnel or nonmedical personnel.

481 d. In order to utilize the provisions of this subparagraph,  
482 the medical personnel or nonmedical personnel shall be tested for  
483 HIV pursuant to this section or shall provide the results of an  
484 HIV test taken within 6 months prior to the significant exposure  
485 if such test results are negative.

486 e. A person who receives the results of an HIV test  
487 pursuant to this subparagraph shall maintain the confidentiality  
488 of the information received and of the persons tested. Such  
489 confidential information is exempt from s. 119.07(1).

490 f. If the source of the exposure will not voluntarily  
491 submit to HIV testing and a blood sample was not obtained during  
492 treatment for the medical emergency, the medical personnel, the  
493 employer of the medical personnel acting on behalf of the

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494 employee, or the nonmedical personnel may seek a court order  
495 directing the source of the exposure to submit to HIV testing. A  
496 sworn statement by a physician licensed under chapter 458 or  
497 chapter 459 that a significant exposure has occurred and that, in  
498 the physician's medical judgment, testing is medically necessary  
499 to determine the course of treatment constitutes probable cause  
500 for the issuance of an order by the court. The results of the  
501 test shall be released to the source of the exposure and to the  
502 person who experienced the exposure.

503 12. For the performance of an HIV test by the medical  
504 examiner or attending physician upon an individual who expired or  
505 could not be resuscitated while receiving emergency medical  
506 assistance or care and who was the source of a significant  
507 exposure to medical or nonmedical personnel providing such  
508 assistance or care.

509 a. HIV testing may be conducted only after a licensed  
510 physician documents in the medical record of the medical  
511 personnel or nonmedical personnel that there has been a  
512 significant exposure and that, in the physician's medical  
513 judgment, the information is medically necessary to determine the  
514 course of treatment for the medical personnel or nonmedical  
515 personnel.

516 b. Costs of any HIV test performed under this subparagraph  
517 may not be charged to the deceased or to the family of the  
518 deceased person.

519 c. For the provisions of this subparagraph to be  
520 applicable, the medical personnel or nonmedical personnel must be  
521 tested for HIV under this section or must provide the results of  
522 an HIV test taken within 6 months before the significant exposure

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523 | if such test results are negative.

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

526 |       13. For the performance of an HIV-related test medically  
527 | indicated by licensed medical personnel for medical diagnosis of  
528 | a hospitalized infant as necessary to provide appropriate care  
529 | and treatment of the infant when, after a reasonable attempt, a  
530 | parent cannot be contacted to provide consent. The medical  
531 | records of the infant shall reflect the reason consent of the  
532 | parent was not initially obtained. Test results shall be  
533 | provided to the parent when the parent is located.

534 |       14. For the performance of HIV testing conducted to monitor  
535 | the clinical progress of a patient previously diagnosed to be HIV  
536 | positive.

537 |       15. For the performance of repeated HIV testing conducted  
538 | to monitor possible conversion from a significant exposure.

539 |       Section 3. This act shall take effect July 1, 2008.