

By Senator Wilson

33-00944-10

20101248

1 A bill to be entitled
2 An act relating to the testing of inmates for HIV
3 infection in certain county detention facilities;
4 amending s. 951.27, F.S.; requiring the Department of
5 Health to designate certain counties, if approved by
6 the county's governing body, to participate in a
7 program to test each inmate for HIV before the inmate
8 is released if the inmate's HIV status is unknown;
9 providing certain exceptions; requiring that certain
10 county detention facilities notify the Department of
11 Health and the county health department in the county
12 where the inmate plans to reside following release if
13 the inmate is HIV positive; requiring certain
14 detention facilities to provide special transitional
15 assistance to an inmate who is HIV positive; providing
16 immunity from liability for complying entities;
17 amending s. 381.004, F.S.; providing that informed
18 consent is not required for an HIV test of an inmate
19 before the inmate's release from a municipal or county
20 detention facility; providing an effective date.

21
22 Be It Enacted by the Legislature of the State of Florida:

23
24 Section 1. Section 951.27, Florida Statutes, is amended to
25 read:

26 951.27 Blood tests of inmates.—

27 (1) Each county and each municipal detention facility shall
28 have a written procedure developed, in consultation with the
29 facility medical provider, establishing conditions under which

33-00944-10

20101248

30 an inmate will be tested for infectious disease, including human
31 immunodeficiency virus pursuant to s. 775.0877, which procedure
32 is consistent with guidelines of the Centers for Disease Control
33 and Prevention and recommendations of the Correctional Medical
34 Authority. It is not unlawful for the person receiving the test
35 results to divulge the test results to the sheriff or chief
36 correctional officer.

37 (2) (a) The Department of Health shall designate two
38 counties having a population of 1.2 million or more and five
39 counties having a population of fewer than 1.2 million to
40 participate in the testing program provided in this subsection,
41 if participation in the testing program is authorized by a
42 majority of the county's governing body. Each county detention
43 facility that lies within the authority of any participating
44 county shall, consistent with s. 381.004(3), perform an HIV test
45 as defined in s. 381.004(2) on each sentenced inmate who is to
46 be released from the facility unless the facility knows that the
47 inmate is HIV positive or unless, within 120 days before the
48 release date, the inmate has been tested for HIV and does not
49 request retesting. The required test must be performed not less
50 than 30 days before the release date of the inmate. A test is
51 not required under this paragraph if an inmate is released due
52 to an emergency or a court order and the detention facility
53 receives less than 30 days' notice of the release date or if the
54 inmate is transferred to the custody of the Department of
55 Corrections for incarceration in the state correctional system.

56 (b) Each county detention facility in a county that
57 participates in the testing program authorized in paragraph (a)
58 must comply with the requirements of this paragraph. If the

33-00944-10

20101248

59 county detention facility knows that an inmate who is to be
60 released from the facility is HIV positive or has received a
61 positive HIV test result, that facility shall, before the inmate
62 is released:

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

67 2. Provide special transitional assistance to the inmate
68 which must include:

69 a. Education on preventing the transmission of HIV to
70 others and on the importance of receiving followup medical care
71 and treatment.

72 b. A written, individualized discharge plan that includes
73 records of all laboratory and diagnostic test results,
74 medication and treatment information, and referrals to and
75 contacts with the county health department and local primary
76 medical care services for the treatment of HIV infection which
77 are available in the area where the inmate plans to reside.

78 (3)-(2) Except as otherwise provided in this subsection,
79 serologic blood test results obtained pursuant to subsection (1)
80 or subsection (2) are confidential and exempt from the
81 provisions of s. 119.07(1) and s. 24(a), Art. I of the State
82 Constitution. However, such results may be provided to employees
83 or officers of the sheriff or chief correctional officer who are
84 responsible for the custody and care of the affected inmate and
85 have a need to know such information, and as provided in ss.
86 381.004(3), 775.0877, and 960.003. In addition, upon request of
87 the victim or the victim's legal guardian, or the parent or

33-00944-10

20101248

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

101 ~~(4)-(3)~~ The results of any serologic blood test on an inmate
102 are a part of that inmate's permanent medical file. Upon
103 transfer of the inmate to any other correctional facility, such
104 file is also transferred, and all relevant authorized persons
105 must be notified of positive HIV test results, as required in s.
106 775.0877.

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

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

114 381.004 HIV testing.—

115 (3) ~~HUMAN IMMUNODEFICIENCY VIRUS TESTING; INFORMED CONSENT;~~
116 ~~RESULTS; COUNSELING; CONFIDENTIALITY.—~~

33-00944-10

20101248

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

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

- 138 1. Is not competent, is incapacitated, or is otherwise
139 unable to make an informed judgment; or
- 140 2. Has not reached the age of majority, except as provided
141 in s. 384.30.

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

33-00944-10

20101248

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

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

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

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

172 3. The results of rapid testing technologies shall be
173 considered preliminary and may be released in accordance with
174 the manufacturer's instructions as approved by the federal Food

33-00944-10

20101248

175 and Drug Administration.

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

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

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

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

202 3. An authorized agent or employee of a health facility or
203 health care provider if the health facility or health care

33-00944-10

20101248

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

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

33-00944-10

20101248

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
253 a reasonable opportunity to participate in the proceedings if he
254 or 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
259 proper administration of justice.

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

33-00944-10

20101248

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
265 future disclosure.

266 10. A person allowed access by order of a judge of
267 compensation claims of the Division of Administrative Hearings.
268 A judge of compensation claims shall not issue such order unless
269 he 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
276 who have a need to know such information; adoptive parents of
277 such test subject; or any adult custodian, any adult relative,
278 or any person responsible for the child's welfare, if the test
279 subject was not tested under subparagraph (b)2. and if a
280 reasonable attempt has been made to locate and inform the legal
281 guardian of a test result. The department shall adopt a rule to
282 implement 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.

33-00944-10

20101248__

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). A ~~No~~ person to whom
302 the results of a test have been disclosed may not disclose the
303 test results to another person except as authorized by this
304 subsection and by ss. 951.27 and 960.003. Whenever disclosure is
305 made 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
314 for this purpose." An oral disclosure shall be accompanied by
315 oral notice and followed by a written notice within 10 days,
316 except that this notice shall not be required for disclosures
317 made 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

33-00944-10

20101248__

320 be released in accordance with s. 395.3025 without being subject
321 to the requirements of subparagraph (e)2., subparagraph (e)9.,
322 or 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 inmates pursuant to s. 951.27 before
339 their release from a county or municipal detention facility.

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

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

33-00944-10

20101248

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

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

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

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

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

377 9. When human tissue is collected lawfully without the

33-00944-10

20101248

378 consent of the donor for corneal removal as authorized by s.
379 765.5185 or enucleation of the eyes as authorized by s. 765.519.

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

394 a. Prior to performance of an HIV test on a voluntarily
395 obtained blood sample, the individual from whom the blood was
396 obtained shall be requested to consent to the performance of the
397 test and to the release of the results. If consent cannot be
398 obtained within the time necessary to perform the HIV test and
399 begin prophylactic treatment of the exposed medical personnel,
400 all information concerning the performance of an HIV test and
401 any HIV test result shall be documented only in the medical
402 personnel's record unless the individual gives written consent
403 to entering this information on the individual's medical record.

404 b. Reasonable attempts to locate the individual and to
405 obtain consent shall be made, and all attempts must be
406 documented. If the individual cannot be found or is incapable of

33-00944-10

20101248

407 providing consent, an HIV test may be conducted on the available
408 blood sample. If the individual does not voluntarily consent to
409 the performance of an HIV test, the individual shall be informed
410 that an HIV test will be performed, and counseling shall be
411 furnished as provided in this section. However, HIV testing
412 shall be conducted only after appropriate medical personnel
413 under the supervision of a licensed physician documents, in the
414 medical record of the medical personnel, that there has been a
415 significant exposure and that, in accordance with the written
416 protocols based on the National Centers for Disease Control and
417 Prevention guidelines on HIV postexposure prophylaxis and in the
418 physician's medical judgment, the information is medically
419 necessary to determine the course of treatment for the medical
420 personnel.

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

428 d. In order to utilize the provisions of this subparagraph,
429 the medical personnel must either be tested for HIV pursuant to
430 this section or provide the results of an HIV test taken within
431 6 months prior to the significant exposure if such test results
432 are negative.

433 e. A person who receives the results of an HIV test
434 pursuant to this subparagraph shall maintain the confidentiality
435 of the information received and of the persons tested. Such

33-00944-10

20101248

436 confidential information is exempt from s. 119.07(1).

437 f. If the source of the exposure will not voluntarily
438 submit to HIV testing and a blood sample is not available, the
439 medical personnel or the employer of such person acting on
440 behalf of the employee may seek a court order directing the
441 source of the exposure to submit to HIV testing. A sworn
442 statement by a physician licensed under chapter 458 or chapter
443 459 that a significant exposure has occurred and that, in the
444 physician's medical judgment, testing is medically necessary to
445 determine the course of treatment constitutes probable cause for
446 the issuance of an order by the court. The results of the test
447 shall be released to the source of the exposure and to the
448 person who experienced the exposure.

449 11. For the performance of an HIV test upon an individual
450 who comes into contact with medical personnel in such a way that
451 a significant exposure has occurred during the course of
452 employment or within the scope of practice of the medical
453 personnel while the medical personnel provides emergency medical
454 treatment to the individual; or notwithstanding s. 384.287, an
455 individual who comes into contact with nonmedical personnel in
456 such a way that a significant exposure has occurred while the
457 nonmedical personnel provides emergency medical assistance
458 during a medical emergency. For the purposes of this
459 subparagraph, a medical emergency means an emergency medical
460 condition outside of a hospital or health care facility that
461 provides physician care. The test may be performed only during
462 the course of treatment for the medical emergency.

463 a. An individual who is capable of providing consent shall
464 be requested to consent to an HIV test prior to the testing. If

33-00944-10

20101248

465 consent cannot be obtained within the time necessary to perform
466 the HIV test and begin prophylactic treatment of the exposed
467 medical personnel and nonmedical personnel, all information
468 concerning the performance of an HIV test and its result, shall
469 be documented only in the medical personnel's or nonmedical
470 personnel's record unless the individual gives written consent
471 to entering this information on the individual's medical record.

472 b. HIV testing shall be conducted only after appropriate
473 medical personnel under the supervision of a licensed physician
474 documents, in the medical record of the medical personnel or
475 nonmedical personnel, that there has been a significant exposure
476 and that, in accordance with the written protocols based on the
477 National Centers for Disease Control and Prevention guidelines
478 on HIV postexposure prophylaxis and in the physician's medical
479 judgment, the information is medically necessary to determine
480 the course of treatment for the medical personnel or nonmedical
481 personnel.

482 c. Costs of any HIV test performed with or without the
483 consent of the individual, as provided in this subparagraph,
484 shall be borne by the medical personnel or the employer of the
485 medical personnel or nonmedical personnel. However, costs of
486 testing or treatment not directly related to the initial HIV
487 tests or costs of subsequent testing or treatment may not be
488 borne by the medical personnel or the employer of the medical
489 personnel or nonmedical personnel.

490 d. In order to utilize the provisions of this subparagraph,
491 the medical personnel or nonmedical personnel shall be tested
492 for HIV pursuant to this section or shall provide the results of
493 an HIV test taken within 6 months prior to the significant

33-00944-10

20101248

494 exposure if such test results are negative.

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

499 f. If the source of the exposure will not voluntarily
500 submit to HIV testing and a blood sample was not obtained during
501 treatment for the medical emergency, the medical personnel, the
502 employer of the medical personnel acting on behalf of the
503 employee, or the nonmedical personnel may seek a court order
504 directing the source of the exposure to submit to HIV testing. A
505 sworn statement by a physician licensed under chapter 458 or
506 chapter 459 that a significant exposure has occurred and that,
507 in the physician's medical judgment, testing is medically
508 necessary to determine the course of treatment constitutes
509 probable cause for the issuance of an order by the court. The
510 results of the test shall be released to the source of the
511 exposure and to the person who experienced the exposure.

512 12. For the performance of an HIV test by the medical
513 examiner or attending physician upon an individual who expired
514 or could not be resuscitated while receiving emergency medical
515 assistance or care and who was the source of a significant
516 exposure to medical or nonmedical personnel providing such
517 assistance or care.

518 a. HIV testing may be conducted only after appropriate
519 medical personnel under the supervision of a licensed physician
520 documents in the medical record of the medical personnel or
521 nonmedical personnel that there has been a significant exposure
522 and that, in accordance with the written protocols based on the

33-00944-10

20101248

523 National Centers for Disease Control and Prevention guidelines
524 on HIV postexposure prophylaxis and in the physician's medical
525 judgment, the information is medically necessary to determine
526 the course of treatment for the medical personnel or nonmedical
527 personnel.

528 b. Costs of any HIV test performed under this subparagraph
529 may not be charged to the deceased or to the family of the
530 deceased person.

531 c. For the provisions of this subparagraph to be
532 applicable, the medical personnel or nonmedical personnel must
533 be tested for HIV under this section or must provide the results
534 of an HIV test taken within 6 months before the significant
535 exposure if such test results are negative.

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

538 13. For the performance of an HIV-related test medically
539 indicated by licensed medical personnel for medical diagnosis of
540 a hospitalized infant as necessary to provide appropriate care
541 and treatment of the infant when, after a reasonable attempt, a
542 parent cannot be contacted to provide consent. The medical
543 records of the infant shall reflect the reason consent of the
544 parent was not initially obtained. Test results shall be
545 provided to the parent when the parent is located.

546 14. For the performance of HIV testing conducted to monitor
547 the clinical progress of a patient previously diagnosed to be
548 HIV positive.

549 15. For the performance of repeated HIV testing conducted
550 to monitor possible conversion from a significant exposure.

551 Section 3. This act shall take effect July 1, 2010.