

HOUSE BILL No. 4103

February 11, 1987, Introduced by Rep. Power and referred to the Committee on Public Health.

A bill to amend section 2638 of Act No. 368 of the Public Acts of 1978, entitled as amended

"Public health code,"

being section 333.2638 of the Michigan Compiled Laws; and to add sections 5214 and 5214a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Section 2638 of Act No. 368 of the Public Acts
2 of 1978, being section 333.2638 of the Michigan Compiled Laws, is
3 amended and sections 5214 and 5214a are added to read as
4 follows:

5 Sec. 2638. ~~—A~~ EXCEPT AS OTHERWISE PROVIDED IN
6 SECTION 5214A, A person who discloses confidential information in
7 violation of sections 2631 to 2633 or who violates section 2637
8 or a rule implementing section 2637 is guilty of a misdemeanor,
9 punishable by imprisonment for not more than 1 year, or a fine of

1 not more than \$1,000.00, or both, and if the person is an
2 employee of the department shall be subject to immediate
3 dismissal.

4 SEC. 5214. (1) A HOSPITAL, CLINICAL LABORATORY, OR OTHER
5 HEALTH FACILITY OR AGENCY LICENSED UNDER ARTICLE 17 WHICH OBTAINS
6 FROM A TEST SUBJECT A POSITIVE, VALIDATED TEST RESULT FOR THE
7 PRESENCE OF HTLV III OR AN ANTIBODY TO HTLV III SHALL REPORT TO
8 THE DEPARTMENT ON A FORM PROVIDED BY THE DEPARTMENT ALL OF THE
9 FOLLOWING INFORMATION:

10 (A) THE NAME AND ADDRESS OF THE HOSPITAL, CLINICAL LABORATO-
11 RY, OR OTHER HEALTH FACILITY OR AGENCY.

12 (B) THE NAME AND ADDRESS OF THE TEST SUBJECT'S PHYSICIAN, IF
13 KNOWN.

14 (C) THE NAME, ADDRESS, TELEPHONE NUMBER, AGE, RACE, SEX, AND
15 COUNTY OF RESIDENCE OF THE TEST SUBJECT, IF KNOWN.

16 (D) THE DATE ON WHICH THE TEST WAS PERFORMED.

17 (E) THE TEST RESULT.

18 (F) ANY OTHER MEDICAL OR EPIDEMIOLOGICAL INFORMATION CONSID-
19 ERED NECESSARY BY THE DEPARTMENT FOR THE SURVEILLANCE, CONTROL,
20 AND PREVENTION OF HTLV III INFECTIONS.

21 (2) THE DEPARTMENT SHALL PROMULGATE RULES TO ESTABLISH THE
22 VALIDATION REQUIREMENTS FOR TESTS FOR THE PRESENCE OF HTLV III OR
23 AN ANTIBODY TO HTLV III. THE DEPARTMENT SHALL SUBMIT THE RULES
24 FOR PUBLIC HEARING PURSUANT TO THE ADMINISTRATIVE PROCEDURES ACT
25 OF 1969 WITHIN 90 DAYS AFTER THE EFFECTIVE DATE OF THIS SECTION.

1 (3) AS USED IN THIS SECTION AND SECTION 5214A, "HTLV III"
2 MEANS HUMAN T-CELL LYMPHADENOPATHY-ASSOCIATED VIRUS (LAV) AND
3 ACQUIRED IMMUNODEFICIENCY SYNDROME-RELATED VIRUS (ARV).

4 SEC. 5214A. (1) IF THE DEPARTMENT RECEIVES A REPORT PURSU-
5 ANT TO SECTION 5213 OR 5214 THAT A RESIDENT OF THIS STATE HAS
6 BEEN DIAGNOSED AS HAVING ACQUIRED IMMUNODEFICIENCY SYNDROME OR
7 ACQUIRED IMMUNODEFICIENCY SYNDROME RELATED COMPLEX, OR HAS TESTED
8 POSITIVE, AS INDICATED BY A POSITIVE, VALIDATED TEST RESULT, FOR
9 THE PRESENCE OF HTLV III OR AN ANTIBODY TO HTLV III, THE DEPART-
10 MENT SHALL DO BOTH OF THE FOLLOWING:

11 (A) WITHIN 10 DAYS AFTER RECEIPT OF THE REPORT, ATTEMPT TO
12 INTERVIEW THE INDIVIDUAL WHO HAS BEEN DIAGNOSED AS HAVING
13 ACQUIRED IMMUNODEFICIENCY SYNDROME OR ACQUIRED IMMUNODEFICIENCY
14 SYNDROME RELATED COMPLEX, OR HAS TESTED POSITIVE FOR HTLV III OR
15 AN ANTIBODY TO HTLV III AND OFFER TO CONTACT THE INDIVIDUAL'S
16 SEXUAL CONTACTS AND, IF APPLICABLE, HYPODERMIC NEEDLE-SHARING OR
17 DRUG-SHARING CONTACTS. THE INTERVIEW CONDUCTED UNDER THIS SUBDI-
18 VISION SHALL BE VOLUNTARY ON THE PART OF THE INDIVIDUAL BEING
19 INTERVIEWED.

20 (B) WITHIN 30 DAYS AFTER THE INTERVIEW CONDUCTED PURSUANT TO
21 SUBDIVISION (A), CONFIDENTIALLY, PRIVATELY, AND IN A DISCREET
22 MANNER CONTACT EACH INDIVIDUAL IDENTIFIED AS A SEXUAL OR HYPODER-
23 MIC NEEDLE-SHARING OR DRUG-SHARING CONTACT REGARDING THE
24 INDIVIDUAL'S POSSIBLE EXPOSURE TO ACQUIRED IMMUNODEFICIENCY
25 SYNDROME. THE DEPARTMENT SHALL PROVIDE EACH INDIVIDUAL INTER-
26 VIEWED AND EACH INDIVIDUAL CONTACTED PURSUANT TO THIS SUBSECTION
27 WITH ALL OF THE FOLLOWING INFORMATION:

1 (i) AVAILABLE MEDICAL TESTS FOR ACQUIRED IMMUNODEFICIENCY
2 SYNDROME, ACQUIRED IMMUNODEFICIENCY SYNDROME RELATED COMPLEX, AND
3 THE ANTIBODY TO HTLV III.

4 (ii) STEPS TO TAKE IN ORDER TO AVOID TRANSMISSION OF
5 ACQUIRED IMMUNODEFICIENCY SYNDROME AND ACQUIRED IMMUNODEFICIENCY
6 SYNDROME RELATED COMPLEX.

7 (iii) OTHER INFORMATION CONSIDERED APPROPRIATE BY THE
8 DEPARTMENT.

9 (2) IF AN INDIVIDUAL INTERVIEWED UNDER SUBSECTION (1)(A)
10 DECLINES TO REVEAL HIS OR HER SEXUAL OR HYPODERMIC NEEDLE-SHARING
11 OR DRUG-SHARING CONTACTS, THE DEPARTMENT SHALL PROVIDE THE INDI-
12 VIDUAL WITH MATERIAL CONTAINING THE INFORMATION DESCRIBED IN
13 SUBSECTION (1)(B) FOR THE PURPOSE OF DISTRIBUTION TO HIS OR HER
14 CONTACTS.

15 (3) A HEALTH CARE PROVIDER LICENSED UNDER ARTICLE 15 OR A
16 HOSPITAL, CLINICAL LABORATORY, OR OTHER HEALTH FACILITY OR AGENCY
17 LICENSED UNDER ARTICLE 17 WHICH OBTAINS FROM A TEST SUBJECT A
18 POSITIVE, VALIDATED TEST RESULT FOR THE PRESENCE OF HTLV III OR
19 THE ANTIBODY TO HTLV III OR DIAGNOSES A TEST SUBJECT AS HAVING
20 IMMUNODEFICIENCY SYNDROME COMPLEX, ON AN ANONYMOUS BASIS, SHALL
21 PROVIDE TO THE TEST SUBJECT SUFFICIENT COPIES OF THE INFORMATION
22 DESCRIBED IN SUBSECTION (1)(B) FOR THE PURPOSE OF DISTRIBUTION TO
23 HIS OR HER SEXUAL OR HYPODERMIC NEEDLE-SHARING OR DRUG-SHARING
24 CONTACTS.

25 (4) THE REPORTS, RECORDS, AND DATA OF THE DEPARTMENT PER-
26 TAINING TO INFORMATION ACQUIRED PURSUANT TO SUBSECTION (1) OR
27 SECTION 5214 SHALL BE CONFIDENTIAL. THE DEPARTMENT SHALL

1 PROMULGATE RULES TO PROTECT THE CONFIDENTIALITY AND REGULATE THE
2 DISCLOSURE OF THE REPORTS, RECORDS, AND DATA RECEIVED UNDER THIS
3 SECTION OR SECTION 5214. THE DEPARTMENT SHALL SUBMIT THE RULES
4 FOR PUBLIC HEARING PURSUANT TO THE ADMINISTRATIVE PROCEDURES ACT
5 OF 1969 WITHIN 90 DAYS AFTER THE EFFECTIVE DATE OF THIS SECTION.

6 (5) A PERSON WHO DISCLOSES CONFIDENTIAL INFORMATION IN VIO-
7 LATION OF SUBSECTION (4) OR A RULE PROMULGATED UNDER
8 SUBSECTION (4) IS GUILTY OF A FELONY, PUNISHABLE BY IMPRISONMENT
9 FOR NOT MORE THAN 2 YEARS, OR A FINE OF NOT MORE THAN \$5,000.00,
10 OR BOTH.

11 (6) A PERSON WHO NEGLIGENTLY DISCLOSES CONFIDENTIAL INFORMA-
12 TION IN VIOLATION OF SUBSECTION (4) OR A RULE PROMULGATED UNDER
13 SUBSECTION (4) IS CIVILLY LIABLE FOR THE DAMAGES PROXIMATELY
14 CAUSED BY THE DISCLOSURE. IN ADDITION, A PERSON WHO WILLFULLY
15 AND WANTONLY DISCLOSES CONFIDENTIAL INFORMATION IN VIOLATION OF
16 SUBSECTION (4) OR A RULE PROMULGATED UNDER SUBSECTION (4) SHALL
17 BE SUBJECT TO PUNITIVE DAMAGES.

18 (7) THIS SECTION DOES NOT LIMIT THE OTHERWISE EXISTING
19 POWERS OF THE DEPARTMENT TO MONITOR AND CONTROL ACQUIRED IMMUNO-
20 DEFICIENCY SYNDROME OR OTHER COMMUNICABLE DISEASES.