

# Legislative Analysis

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## HIV REPORTING

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**Senate Bill 1129 (Substitute H-1)**

**Sponsor: Sen. Virg Bernero**

**House Committee: Health Policy**

**Senate Committee: Health Policy**

### **First Analysis (11-23-04)**

**BRIEF SUMMARY:** The bill would amend the Public Health Code to delete a provision exempting licensed clinical laboratories from HIV reporting requirements; revise the reporting requirements; require the reporting of AIDS cases; and require a physician to send a specimen to a laboratory for an HIV test without specified identifying information, upon a patient's request.

**FISCAL IMPACT:** The bill may cause more data to be gathered by local public health departments and the Department of Community Health at a modest cost, using administrative systems that are already in place. Additional data may aid DCH in directing its HIV/AIDS prevention programming more effectively, improve disease control in the state, and increase federal funds granted to Michigan for AIDS care programs if the data contributes to an increase in the number of reported HIV/AIDS cases.

### **THE APPARENT PROBLEM:**

Legislation was enacted in 1998 to make HIV reporting mandatory in Michigan. However, clinical laboratories are exempt from the reporting requirements. Reportedly, the exemption was originally put in place for confidentiality purposes. According to a 2001 evaluation conducted by the Department of Community Health (DCH), only 58 percent of HIV infections are reported to the department due to the exemption of clinical labs.

Not only does this underreporting hinder efforts to manage HIV, it also results in the loss of federal funding for HIV programs. Similarly, the number of AIDS cases are also thought to be underreported. As a result, some people have recommended that the exemption for clinical labs be eliminated, the reporting requirements revised to better track HIV status, and AIDS cases counted to provide a more complete picture of HIV and AIDS in the state.

### **THE CONTENT OF THE BILL:**

Under the code, a person or governmental entity (except for a licensed clinical laboratory) that obtains a test result indicating that a subject is HIV-infected must report to the Department of Community Health, within seven days of obtaining the test result, all of the following information:

- The name and address of the person or governmental entity submitting the report.
- The age, race, sex, and county of residence of the test subject.
- The date on which the test was performed.
- The test result.
- Whether or not the test subject has tested positive for the presence of HIV or an antibody to HIV on a previous occasion, if known.
- The probable method of transmission.
- The purpose of the test.
- Any other medical or epidemiological information the DCH considers necessary for the surveillance, control, and prevention of HIV infection, pursuant to DCH rules.

The same information must also be reported to the appropriate local health department within seven days, along with the test subject's name, address, and telephone number.

Senate Bill 1129 would 1) delete the exemption for licensed clinical laboratories and 2) revise the reporting requirements. The results from a diagnostic test that indicated an HIV infection and the results from a test on a subject already diagnosed as HIV-infected (to evaluate immune system status, quantify HIV levels, or to diagnose AIDS) would have to be reported to the local health department or, at the local department's request, to DCH within seven days. Non-diagnostic test results would have to be reported within a time frame determined by DCH. The reports would have to include the following information:

- The name and address of the person or governmental entity who submitted the report.
- The name, address, and telephone number of the health care provider who diagnosed the test subject or ordered the test.
- The name, date of birth, race, sex, address, and telephone number of the test subject.
- The date on which the specimen was collected for testing.
- The type of test performed.
- The test result.
- If known, whether or not the test subject had tested positive for the presence of HIV or an HIV antibody on a previous occasion.
- The purpose of the test.
- Any other medical or epidemiological information the DCH considered necessary for the surveillance, control, and prevention of HIV infections, pursuant to DCH rules.

Currently, the required information must be reported on a form provided by the DCH. The bill would require reporting on the DCH form or through electronic means approved by the department.

Under the code, if an individual undergoes a test for HIV or an HIV antibody in a physician's private practice office or the office of a physician employed by or under contract with a health maintenance organization, the individual can request that the physician's report not include his or her name, address, and telephone number. The physician must comply with the request, subject to the partner notification requirements of Section 5114a. The bill would extend this requirement to a specimen submitted to a physician for either an HIV or HIV antibody test, and also require the physician to submit the specimen to the laboratory without the test subject's name, address, or telephone number.

The code requires the DCH, in consultation with local health departments, to submit a biennial report to the Senate and House standing committees responsible for public health legislation. The DCH must report on the effect of Section 5114a on the department's efforts to monitor and control HIV infection. The bill would refer to HIV infection and AIDS.

The bill would take effect April 1, 2005.

MCL 333.5114 and 333.5114a

#### ***HOUSE COMMITTEE ACTION:***

The Senate version of the bill required entities to report test results from a test subject who had previously been diagnosed as HIV infected if the test results were from a test ordered for the management and surveillance of the infection or the detection of the HIV infection or AIDS. The House adopted an amendment that instead specified that the test results for a previously infected test subject would be reported if the test result was for a test ordered to evaluate immune system status, to quantify HIV levels, or to diagnose AIDS.

The committee further amended the bill to make the seven-day time frame for reporting apply to a diagnostic test report. A non-diagnostic test result would have to be reported within a time frame determined by the Department of Community Health.

An amendment to add an effective date of April 1, 2005 was also adopted.

#### ***ARGUMENTS:***

##### ***For:***

The bill would assist the Department of Community Health (DCH) in its prevention, detection, and treatment efforts. Currently, it is estimated that just over half of HIV cases are reported to the department. If clinical laboratories were also required to report cases of HIV infection, more accurate data would be provided to the department. This would strengthen Michigan's efforts to manage the disease. Additionally, the bill would require that AIDS cases be reported, thus helping the DCH to measure its success in preventing

HIV-infected people from developing AIDS. Such incidence data are important because they define the epidemic and form the basis of prevention priorities.

In addition, the bill would help local and state officials identify unmet needs and help those who are infected get the necessary treatment while maintaining the anonymous reporting option. Furthermore, the number of HIV/AIDS cases drives decisions regarding resource allocation and forms the basis for federal funding for critical prevention, detection, and treatment programs. According to DCH staff, the state may qualify for up to \$12 million of federal funds over five years if the bill's provisions are put in place.

***For:***

The bill would not place undue burdens on clinical laboratories. Some labs doing HIV testing already report electronically and the DCH is embarking on a new system for electronic reporting for all communicable diseases. Reportedly, there is a federal initiative to develop national standards for reporting communicable diseases (all part of the aftermath of the events of September 11, 2001 and the subsequent anthrax attacks); the bill's requirements should fit well with the expected federal standards. Though a few physician-owned laboratories have expressed a concern over possible sanctions for not fully complying with the bill's requirements, DCH staff maintains that they have never yet had to sanction anyone under this provision of law. If a lab or physician office is found to be in noncompliance, reportedly, the department's recourse is to build a relationship by sending letters or even a department staffer to help resolve any issues and bring the lab or physician's office into compliance.

In addition, patient confidentiality would not be compromised by the new information to be included when a test was submitted. A person undergoing a test in his or her doctor's office for HIV or AIDS could request that his or her name, address, and phone number not be reported. Moreover, representatives of HIV/AIDS support groups expressed appreciation that the bill better captures HIV status and would provide more accurate data on new infections (as that is where the support groups put a lot of their focus).

***POSITIONS:***

The Department of Community Health supports the bill. (11-9-04)

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.