

# HOUSE BILL No. 4899

May 7, 2009, Introduced by Reps. Segal, Liss, Haugh, Moore and Roy Schmidt and referred to the Committee on Health Policy.

A bill to amend 1978 PA 368, entitled  
"Public health code,"  
by amending sections 5101, 5111, 5117, 5131, 5204, and 20191 (MCL  
333.5101, 333.5111, 333.5117, 333.5131, 333.5204, and 333.20191),  
sections 5101, 5111, and 5117 as amended by 1994 PA 200, section  
5131 as amended and section 5204 as added by 1997 PA 57, and  
section 20191 as amended by 1994 PA 419.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1       Sec. 5101. (1) As used in this article:
- 2       (a) "Care" includes treatment, control, transportation,
- 3       confinement, and isolation in a facility or other location.
- 4       (b) "Communicable disease" means an illness due to a specific
- 5       infectious agent or its toxic products that results from

1 transmission of that infectious agent or its products from a  
2 reservoir to a susceptible host, directly as from an infected  
3 individual or animal, or indirectly through the agency of an  
4 intermediate plant or animal host, vector, or the inanimate  
5 environment.

6 (c) "HIV" means human immunodeficiency virus.

7 (d) "HIV infection" or "HIV infected" means the status of an  
8 individual who has tested positive for HIV, as evidenced by either  
9 a double positive enzyme-linked immunosorbent assay test, combined  
10 with a positive western blot assay test, or a positive result under  
11 an HIV test that is considered reliable by the federal centers for  
12 disease control **AND PREVENTION** and is approved by the department.

13 (e) "Immunization" means the process of increasing an  
14 individual's immunity to a disease by use of a vaccine, antibody  
15 preparation, or other substance.

16 (f) "Infection" means the invasion of the body with  
17 microorganisms or parasites, whether or not the invasion results in  
18 detectable pathologic effects.

19 (g) "Serious communicable disease or infection" means a  
20 communicable disease or infection that is designated as serious by  
21 the department pursuant to this part. Serious communicable disease  
22 or infection includes, but is not limited to, HIV infection,  
23 acquired immunodeficiency syndrome, venereal disease, and  
24 tuberculosis.

25 (h) "Venereal disease" means syphilis, gonorrhea, chancroid,  
26 lymphogranuloma venereum, granuloma inguinale, and other sexually  
27 transmitted diseases ~~which~~ **THAT** the department ~~by rule~~ may

1 designate and require to be reported **UNDER SECTION 5111.**

2 (2) In addition, article 1 contains general definitions and  
3 principles of construction applicable to all articles in this code.

4 Sec. 5111. (1) In carrying out its authority under this  
5 article, the department ~~may promulgate rules to~~ **SHALL MAINTAIN A**  
6 **LIST OF REPORTABLE DISEASES, INFECTIONS, AND DISABILITIES THAT**  
7 **DESIGNATES AND CLASSIFIES COMMUNICABLE, SERIOUS COMMUNICABLE,**  
8 **CHRONIC, OR NONCOMMUNICABLE DISEASES, INFECTIONS, AND DISABILITIES.**  
9 **THE DEPARTMENT SHALL REVIEW AND REVISE THE LIST UNDER THIS**  
10 **SUBSECTION AT LEAST ANNUALLY.**

11 (2) **IN CARRYING OUT ITS AUTHORITY UNDER THIS ARTICLE, THE**  
12 **DEPARTMENT MAY PROMULGATE RULES TO DO ANY OF THE FOLLOWING:**

13 ~~—— (a) Designate and classify communicable, serious communicable,~~  
14 ~~chronic, other noncommunicable diseases, infections, and~~  
15 ~~disabilities.~~

16 **(A)** ~~(b)~~ Establish requirements for reporting and other  
17 surveillance methods for measuring the occurrence of diseases,  
18 infections, and disabilities and the potential for epidemics. Rules  
19 promulgated under this subdivision may require a licensed health  
20 professional or health facility to submit to the department or a  
21 local health department, on a form provided by the department, a  
22 report of the occurrence of a communicable disease, serious  
23 communicable disease or infection, or disability. The rules  
24 promulgated under this subdivision may require a report to be  
25 submitted to the department not more than 24 hours after a licensed  
26 health professional or health facility determines that an  
27 individual has a serious communicable disease or infection.

1       **(B)** ~~(e)~~—Investigate cases, epidemics, and unusual occurrences  
2 of diseases, infections, and situations with a potential for  
3 causing diseases.

4       **(C)** ~~(d)~~—Establish procedures for control of diseases and  
5 infections, including, but not limited to, immunization and  
6 environmental controls.

7       **(D)** ~~(e)~~—Establish procedures for the prevention, detection,  
8 and treatment of disabilities and rehabilitation of individuals  
9 suffering from disabilities or disease, including nutritional  
10 problems.

11       **(E)** ~~(f)~~—Establish procedures for control of rabies and the  
12 disposition of nonhuman agents carrying disease, including rabid  
13 animals.

14       **(F)** ~~(g)~~—Establish procedures for the reporting of known or  
15 suspected cases of lead poisoning or undue lead body burden.

16       **(G)** ~~(h)~~—Designate communicable diseases or serious  
17 communicable diseases or infections for which local health  
18 departments are required to furnish care including, but not limited  
19 to, tuberculosis and venereal disease.

20       **(H)** ~~(i)~~—Implement this part and parts 52 and 53 including, but  
21 not limited to, rules for the discovery, care, and reporting of an  
22 individual having or suspected of having a communicable disease or  
23 a serious communicable disease or infection, and to establish  
24 approved tests under section ~~5125~~—**5123** and approved prophylaxes  
25 under section ~~5127~~—**5125**.

26       **(3)** ~~(2)~~—The department shall promulgate rules to provide for  
27 the confidentiality of reports, records, and data pertaining to

1 testing, care, treatment, reporting, and research associated with  
2 communicable diseases and serious communicable diseases or  
3 infections. ~~The rules shall specify the communicable diseases and~~  
4 ~~serious communicable diseases or infections covered under the rules~~  
5 ~~and shall include, but are not limited to, hepatitis B, venereal~~  
6 ~~disease, and tuberculosis. The rules shall not apply to the serious~~  
7 ~~communicable diseases or infections of HIV infection, or acquired~~  
8 ~~immunodeficiency syndrome. The department shall submit the rules~~  
9 ~~for public hearing under the administrative procedures act of 1969~~  
10 ~~by November 20, 1989.~~

11       Sec. 5117. (1) A local health department that knows that an  
12 individual who has a serious communicable disease or infection  
13 including, but not limited to, tuberculosis or venereal disease,  
14 but not including HIV infection and acquired immunodeficiency  
15 syndrome, regardless of the individual's domicile, is in the local  
16 health department's jurisdiction and requires care, immediately  
17 shall furnish the necessary care in accordance with requirements  
18 established by the department pursuant to section ~~5111(h)~~  
19 **5111(2)(G)**. The local health department shall issue an order  
20 authorizing the care.

21       (2) The local health department promptly shall report the  
22 action taken under this section to the county department of social  
23 services of the individual's probable place of domicile.

24       (3) This section does not restrict the authority of the local  
25 health department in furnishing care to the individual, pending  
26 determination by the local health department or, upon its request,  
27 by the county department of social services of the probable place

1 of domicile of the individual.

2 (4) Financial liability for care rendered under this section  
3 shall be determined in accordance with part 53.

4 Sec. 5131. (1) All reports, records, and data pertaining to  
5 testing, care, treatment, reporting, and research, and information  
6 pertaining to partner notification under section 5114a, that are  
7 associated with the serious communicable diseases or infections of  
8 HIV infection and acquired immunodeficiency syndrome are  
9 confidential. A person shall release reports, records, data, and  
10 information described in this subsection only pursuant to this  
11 section.

12 (2) Except as otherwise provided by law, the test results of a  
13 test for HIV infection or acquired immunodeficiency syndrome and  
14 the fact that such a test was ordered is information that is  
15 subject to section 2157 of the revised judicature act of 1961, 1961  
16 PA 236, MCL 600.2157.

17 (3) The disclosure of information pertaining to HIV infection  
18 or acquired immunodeficiency syndrome in response to a court order  
19 and subpoena is limited to only the following cases and is subject  
20 to all of the following restrictions:

21 (a) A court that is petitioned for an order to disclose the  
22 information shall determine both of the following:

23 (i) That other ways of obtaining the information are not  
24 available or would not be effective.

25 (ii) That the public interest and need for the disclosure  
26 outweigh the potential for injury to the patient.

27 (b) If a court issues an order for the disclosure of the

1 information, the order shall do all of the following:

2 (i) Limit disclosure to those parts of the patient's record  
3 that are determined by the court to be essential to fulfill the  
4 objective of the order.

5 (ii) Limit disclosure to those persons whose need for the  
6 information is the basis for the order.

7 (iii) Include such other measures as considered necessary by the  
8 court to limit disclosure for the protection of the patient.

9 (4) A person who releases information pertaining to HIV  
10 infection or acquired immunodeficiency syndrome to a legislative  
11 body shall not identify in the information a specific individual  
12 who was tested or is being treated for HIV infection or acquired  
13 immunodeficiency syndrome.

14 (5) Subject to subsection (7), subsection (1) does not apply  
15 to the following:

16 (a) Information pertaining to an individual who is HIV  
17 infected or has been diagnosed as having acquired immunodeficiency  
18 syndrome, if the information is disclosed to the department, a  
19 local health department, or other health care provider for 1 or  
20 more of the following purposes:

21 (i) To protect the health of an individual.

22 (ii) To prevent further transmission of HIV.

23 (iii) To diagnose and care for a patient.

24 (b) Information pertaining to an individual who is HIV  
25 infected or has been diagnosed as having acquired immunodeficiency  
26 syndrome, if the information is disclosed by a physician or local  
27 health officer to an individual who is known by the physician or

1 local health officer to be a contact of the individual who is HIV  
2 infected or has been diagnosed as having acquired immunodeficiency  
3 syndrome, if the physician or local health officer determines that  
4 the disclosure of the information is necessary to prevent a  
5 reasonably foreseeable risk of further transmission of HIV. This  
6 subdivision imposes an affirmative duty upon a physician or local  
7 health officer to disclose information pertaining to an individual  
8 who is HIV infected or has been diagnosed as having acquired  
9 immunodeficiency syndrome to an individual who is known by the  
10 physician or local health officer to be a contact of the individual  
11 who is HIV infected or has been diagnosed as having acquired  
12 immunodeficiency syndrome. A physician or local health officer may  
13 discharge the affirmative duty imposed under this subdivision by  
14 referring the individual who is HIV infected or has been diagnosed  
15 as having acquired immunodeficiency syndrome to the appropriate  
16 local health department for assistance with partner notification  
17 under section 5114a. The physician or local health officer shall  
18 include as part of the referral the name and, if available, address  
19 and telephone number of each individual known by the physician or  
20 local health officer to be a contact of the individual who is HIV  
21 infected or has been diagnosed as having acquired immunodeficiency  
22 syndrome.

23 (c) Information pertaining to an individual who is HIV  
24 infected or has been diagnosed as having acquired immunodeficiency  
25 syndrome, if the information is disclosed by an authorized  
26 representative of the department or by a local health officer to an  
27 employee of a school district, and if the department representative

1 or local health officer determines that the disclosure is necessary  
2 to prevent a reasonably foreseeable risk of transmission of HIV to  
3 pupils in the school district. An employee of a school district to  
4 whom information is disclosed under this subdivision is subject to  
5 subsection (1).

6 (d) Information pertaining to an individual who is HIV  
7 infected or has been diagnosed as having acquired immunodeficiency  
8 syndrome, if the disclosure is expressly authorized in writing by  
9 the individual. This subdivision applies only if the written  
10 authorization is specific to HIV infection or acquired  
11 immunodeficiency syndrome. If the individual is a minor or  
12 incapacitated, the written authorization may be executed by the  
13 parent or legal guardian of the individual.

14 (e) Information disclosed under section 5114, 5114a, 5119(3),  
15 5129, 5204, or 20191 or information disclosed as required by rule  
16 promulgated under section ~~5111(1)(b) or (i)~~ **5111**.

17 (f) Information pertaining to an individual who is HIV  
18 infected or has been diagnosed as having acquired immunodeficiency  
19 syndrome, if the information is part of a report required under the  
20 child protection law, 1975 PA 238, MCL 722.621 to ~~722.636~~ **722.638**.

21 (g) Information pertaining to an individual who is HIV  
22 infected or has been diagnosed as having acquired immunodeficiency  
23 syndrome, if the information is disclosed by the department of  
24 ~~social-HUMAN~~ services, ~~the department of mental health~~, the probate  
25 court, or a child placing agency in order to care for a minor and  
26 to place the minor with a child care organization licensed under  
27 1973 PA 116, MCL 722.111 to 722.128. The person disclosing the

1 information shall disclose it only to the director of the child  
2 care organization or, if the child care organization is a private  
3 home, to the individual who holds the license for the child care  
4 organization. An individual to whom information is disclosed under  
5 this subdivision is subject to subsection (1). As used in this  
6 subdivision, "child care organization" and "child placing agency"  
7 mean those terms as defined in section 1 of 1973 PA 116, MCL  
8 722.111.

9 (6) A person who releases the results of an HIV test or other  
10 information described in subsection (1) in compliance with  
11 subsection (5) is immune from civil or criminal liability and  
12 administrative penalties including, but not limited to, licensure  
13 sanctions, for the release of that information.

14 (7) A person who discloses information under subsection (5)  
15 shall not include in the disclosure information that identifies the  
16 individual to whom the information pertains, unless the identifying  
17 information is determined by the person making the disclosure to be  
18 reasonably necessary to prevent a foreseeable risk of transmission  
19 of HIV. This subsection does not apply to information disclosed  
20 under subsection (5)(d), (f), or (g).

21 (8) A person who violates this section is guilty of a  
22 misdemeanor, punishable by imprisonment for not more than 1 year or  
23 a fine of not more than \$5,000.00, or both, and is liable in a  
24 civil action for actual damages or \$1,000.00, whichever is greater,  
25 and costs and reasonable attorney fees. This subsection also  
26 applies to the employer of a person who violates this section,  
27 unless the employer had in effect at the time of the violation

1 reasonable precautions designed to prevent the violation.

2       Sec. 5204. (1) A police officer, a fire fighter, a local  
3 correctional officer or other county employee, a court employee, or  
4 an individual making a lawful arrest may proceed under this section  
5 if he or she has received training in the transmission of  
6 bloodborne diseases under the rules governing exposure to  
7 bloodborne diseases in the workplace promulgated by the  
8 occupational health standards commission or incorporated by  
9 reference under the Michigan occupational safety and health act,  
10 1974 PA 154, MCL 408.1001 to 408.1094.

11       (2) A police officer, a fire fighter, a local correctional  
12 officer or other county employee, a court employee, or an  
13 individual making a lawful arrest who has received the training  
14 described in subsection (1) and who, while performing his or her  
15 official duties or otherwise performing the duties of his or her  
16 employment, determines that he or she has sustained a percutaneous,  
17 mucous membrane, or open wound exposure to the blood or body fluids  
18 of an arrestee, correctional facility inmate, parolee, or  
19 probationer may request that the arrestee, correctional facility  
20 inmate, parolee, or probationer be tested for HIV infection, HBV  
21 infection, HCV infection, or all 3 infections, pursuant to this  
22 section.

23       (3) An officer or employee or an individual making a lawful  
24 arrest who desires to make a request described in subsection (2)  
25 shall make the request to his or her employer in writing on a form  
26 provided by the department as soon as possible, but not later than  
27 72 hours, after the exposure occurs. The request form shall be

1 dated and shall contain, at a minimum, the name and address of the  
2 officer, employee, or individual making a lawful arrest making the  
3 request and a description of his or her exposure to the blood or  
4 other body fluids of the arrestee, correctional facility inmate,  
5 parolee, or probationer. The request form shall also contain a  
6 statement that the requester is subject to the confidentiality  
7 requirements of subsection (7) and section 5131. The request form  
8 shall not contain information that would identify the arrestee,  
9 correctional facility inmate, parolee, or probationer by name,  
10 except if necessary to identify the individual for purposes of  
11 testing under this section.

12 (4) The employer of an individual making a request under  
13 subsections (2) and (3) shall accept as fact the requester's  
14 description of his or her exposure to blood or other body fluids as  
15 described in subsection (2). The requester's employer shall have  
16 the test for HIV infection, HBV infection, HCV infection, or all 3  
17 infections performed by the local health department or by a health  
18 care provider designated by the local health department. If the  
19 test subject consents to the performance of the test or tests named  
20 in the request, the requester's employer shall transport the test  
21 subject to the local health department or designated health care  
22 provider for testing, or a representative of the local health  
23 department or designated health care provider shall come to where  
24 the test subject is held or housed to take a blood or other body  
25 fluid sample for testing, as soon as practicable after the local  
26 health department receives the request for testing from the  
27 requester's employer. If the test subject refuses to undergo 1 or

1 more tests specified in the request, the requester's employer may  
2 proceed with a petition to the family division of the circuit court  
3 in the manner provided in section 5205 or 5207, as appropriate.

4 (5) A local health department or a health care provider  
5 designated by the local health department that performs 1 or more  
6 tests under this section may charge the officer or employee or  
7 arresting individual requesting the test for the reasonable and  
8 customary charges of each test. The officer or employee or  
9 arresting individual requesting the test is responsible for the  
10 payment of the charges if the charges are not payable by the  
11 officer's or employee's or arresting individual's employer,  
12 pursuant to an agreement between the officer or employee or  
13 arresting individual and the employer, or by the officer's or  
14 employee's or arresting individual's health care payment or  
15 benefits plan. A local health department or a health care provider  
16 designated by the local health department to perform an HIV test  
17 under this section is not required to provide HIV counseling  
18 pursuant to section 5133(1) to an officer or employee or arresting  
19 individual who requests that an arrestee, correctional facility  
20 inmate, parolee, or probationer be tested for HIV under this  
21 section, unless the local health department or designated health  
22 care provider tests the officer or employee or arresting individual  
23 for HIV.

24 (6) A local health department or a health care provider  
25 designated by the local health department to perform a test under  
26 this section shall, on a form provided by the department, notify  
27 the requesting officer or employee or arresting individual of the

1 HIV test, HBV test, or HCV test results, as applicable, whether  
2 positive or negative, within 2 days after the test results are  
3 obtained by the local health department or designated health care  
4 provider. The notification shall be transmitted directly to the  
5 requesting officer or employee or arresting individual or, upon  
6 request of the requesting officer or employee or arresting  
7 individual, to his or her primary care physician or to another  
8 health professional designated by the officer or employee or  
9 arresting individual. The notification required under this  
10 subsection shall include an explanation of the confidentiality  
11 requirements of subsection (7). The notification required under  
12 this subsection shall also contain a statement recommending that  
13 the requesting officer, employee, or arresting individual undergo  
14 an HIV test, an HBV test, or an HCV test, or all 3 tests.

15 (7) The notice required under subsection (6) shall not contain  
16 information that would identify the arrestee, correctional facility  
17 inmate, parolee, or probationer who tested positive or negative for  
18 HIV, HBV, or HCV. The information contained in the notice is  
19 confidential and is subject to this section, the rules promulgated  
20 under section ~~5111(2)~~**5111**, and section 5131. A person who receives  
21 confidential information under this section shall disclose the  
22 information to others only to the extent consistent with the  
23 authorized purpose for which the information was obtained.

24 (8) The department may promulgate rules to administer this  
25 section. The department shall develop and distribute the forms  
26 required under this section.

27 (9) In addition to the penalties prescribed in the rules

1 promulgated under section ~~5111(2)~~ **5111** and in section 5131, a  
2 person who discloses information in violation of subsection (7) is  
3 guilty of a misdemeanor.

4 (10) A local health department or designated health care  
5 provider shall report to the department each test result obtained  
6 under this section that indicates that an individual is HIV  
7 infected, in compliance with section 5114.

8 (11) A person or governmental entity that makes a good faith  
9 effort to comply with subsections (1) to (6) is immune from civil  
10 liability or criminal penalty based on compliance with, or the  
11 failure to comply with, those subsections.

12 (12) As used in this section and section 5205:

13 (a) "Correctional facility" means a municipal or county jail,  
14 work camp, lockup, holding center, halfway house, community  
15 corrections center, or any other facility maintained by a  
16 municipality or county that houses adult prisoners. Correctional  
17 facility does not include a facility owned or operated by the  
18 department of corrections.

19 (b) "Employee" means a county employee or a court employee.

20 (c) "HBV" means hepatitis B virus.

21 (d) "HBV infected" or "HBV infection" means the status of an  
22 individual who is tested as HBsAg-positive.

23 (e) "HCV" means hepatitis C virus.

24 (f) "HCV infected" or "HCV infection" means the status of an  
25 individual who has tested positive for the presence of HCV  
26 antibodies or has tested positive for HBV using an RNA test.

27 (g) "HIV" means human immunodeficiency virus.

1 (h) "HIV infected" means that term as defined in section 5101.

2 (i) "Individual making a lawful arrest" or "arresting  
3 individual" means 1 of the following:

4 (i) A private security police officer authorized to make an  
5 arrest without a warrant under section 30 of the private security  
6 ~~guard act of 1968~~ **BUSINESS AND SECURITY ALARM ACT**, 1968 PA 330, MCL  
7 338.1080, and section 15 of the code of criminal procedure, 1927 PA  
8 175, MCL 764.15.

9 (ii) A merchant, agent of a merchant, employee of a merchant,  
10 or independent contractor providing security for a merchant  
11 authorized to make an arrest in the merchant's store and in the  
12 course of his or her employment as prescribed by section 16(d) of  
13 the code of criminal procedure, 1927 PA 175, MCL 764.16. Individual  
14 making a lawful arrest or arresting individual does not include a  
15 private person authorized to make an arrest under section 16(a) and  
16 (b) of the code of criminal procedure, 1927 PA 175, MCL 764.16.

17 (j) "Local correctional officer" means an individual employed  
18 by a local governmental unit in a correctional facility as a  
19 corrections officer.

20 (k) "Officer" means a law enforcement officer, motor carrier  
21 officer, or property security officer employed by the state, a law  
22 enforcement officer employed by a local governmental unit, a fire  
23 fighter employed by or volunteering for a local governmental unit,  
24 or a local correctional officer.

25 Sec. 20191. (1) If a police officer, fire fighter, individual  
26 licensed under section 20950 or 20952, or another individual  
27 assists an emergency patient who is subsequently transported to a

1 health facility or transports an emergency patient to a health  
2 facility, and if the emergency patient, as part of the treatment  
3 rendered by the health facility or pursuant to a request made under  
4 subsection (2), is tested for the presence in the emergency patient  
5 of an infectious agent and the test results are positive, or is  
6 tested pursuant to a request made under subsection (2) for the  
7 presence in the emergency patient of the infectious agent of HIV or  
8 HBV and the test results are positive or negative, the health  
9 facility shall do all of the following:

10 (a) Subject to subsection (4) and subdivision (b), if the test  
11 results are positive for an infectious agent and the individual  
12 meets 1 of the following requirements, notify the individual on a  
13 form provided by the department that he or she may have been  
14 exposed to an infectious agent and, if the test results of a test  
15 conducted pursuant to subsection (2) are negative for the  
16 infectious agent of HIV or HBV, notify the individual of that fact:

17 (i) The individual is a police officer, fire fighter, or  
18 individual licensed under section 20950 or 20952.

19 (ii) The individual demonstrates in writing to the health  
20 facility that he or she was exposed to the blood, body fluids, or  
21 airborne agents of the emergency patient or participated in  
22 providing assistance to the emergency patient or transportation of  
23 the emergency patient to the health facility. An individual who  
24 makes a request under subsection (2) is exempt from the  
25 requirements of this subparagraph.

26 (b) Subject to subsection (4), if the test results indicate  
27 that the emergency patient is HIV infected, the health facility

1 shall not reveal that the infectious agent is HIV unless the health  
2 facility has received a written request for notification from an  
3 individual described in subdivision (a)(i) or (ii). This subdivision  
4 does not apply if the test results indicate that the emergency  
5 patient is not HIV infected.

6 (c) Subject to subsection (4), on a form provided by the  
7 department, notify the individual described in subdivision (a), at  
8 a minimum, of the appropriate infection control precautions to be  
9 taken and the approximate date of the potential exposure. If the  
10 emergency patient is tested pursuant to a request made under  
11 subsection (2) for the presence in the emergency patient of the  
12 infectious agent of HIV or HBV, or both, and if the test results  
13 are positive or negative, the health facility also shall notify the  
14 individual described in subdivision (a) on the form provided by the  
15 department that he or she should be tested for HIV infection or HBV  
16 infection, or both, and counseled regarding both infectious agents.

17 (2) A police officer, fire fighter, individual licensed under  
18 section 20950 or 20952, or other individual who assists an  
19 emergency patient who is subsequently transported to a health  
20 facility or who transports an emergency patient to a health  
21 facility and who sustains a percutaneous, mucous membrane, or open  
22 wound exposure to the blood or body fluids of the emergency patient  
23 may request that the emergency patient be tested for HIV infection  
24 or HBV infection, or both, pursuant to this subsection. The police  
25 officer, fire fighter, individual licensed under section 20950 or  
26 20952, or other individual shall make a request to a health  
27 facility under this subsection in writing on a form provided by the

1 department and before the emergency patient is discharged from the  
2 health facility. The request form shall be dated and shall contain  
3 at a minimum the name and address of the individual making the  
4 request and a description of the individual's exposure to the  
5 emergency patient's blood or other body fluids. The request form  
6 shall contain a space for the information required under subsection  
7 (3) and a statement that the requester is subject to the  
8 confidentiality requirements of subsection (5) and section 5131.  
9 The request form shall not contain information that would identify  
10 the emergency patient by name. A health facility that receives a  
11 request under this subsection shall accept as fact the requester's  
12 description of his or her exposure to the emergency patient's blood  
13 or other body fluids, unless the health facility has reasonable  
14 cause to believe otherwise. The health facility shall make a  
15 determination as to whether or not the exposure described in the  
16 request was a percutaneous, mucous membrane, or open wound exposure  
17 pursuant to R 325.70001 to R 325.70018 of the Michigan  
18 administrative code. If the health facility determines that the  
19 exposure described in the request was a percutaneous, mucous  
20 membrane, or open wound exposure, the health facility shall test  
21 the emergency patient for HIV infection or HBV infection, or both,  
22 as indicated in the request. A health facility that performs a test  
23 under this subsection may charge the individual requesting the test  
24 for the reasonable and customary charges of the test. The  
25 individual requesting the test is responsible for the payment of  
26 the charges if the charges are not payable by the individual's  
27 employer, pursuant to an agreement between the individual and the

1 employer, or by the individual's health care payment or benefits  
2 plan. A health facility is not required to provide HIV counseling  
3 pursuant to section 5133(1) to an individual who requests that an  
4 emergency patient be tested for HIV under this subsection, unless  
5 the health facility tests the requesting individual for HIV.

6 (3) A health facility shall comply with this subsection if the  
7 health facility receives a request under subsection (2) and  
8 determines either that there is reasonable cause to disbelieve the  
9 requester's description of his or her exposure or that the exposure  
10 was not a percutaneous, mucous membrane, or open wound exposure and  
11 as a result of the determination the health facility is not  
12 required to test the emergency patient for HIV infection or HBV  
13 infection, or both. A health facility shall also comply with this  
14 subsection if the health facility receives a request under  
15 subsection (2) and determines that the exposure was a percutaneous,  
16 mucous membrane, or open wound exposure, but is unable to test the  
17 emergency patient for HIV infection or HBV infection, or both. The  
18 health facility shall state in writing on the request form the  
19 reasons for disbelieving the requester's description of his or her  
20 exposure, the health facility's exposure determination, or the  
21 inability to test the emergency patient, as applicable. The health  
22 facility shall transmit a copy of the completed request form to the  
23 requesting individual within 2 days after the date the  
24 determination is made that the health facility has reasonable cause  
25 to disbelieve the requester's description of his or her exposure or  
26 that the exposure was not a percutaneous, mucous membrane, or open  
27 wound exposure or within 2 days after the date the health facility

1 determines that it is unable to test the emergency patient for HIV  
2 infection or HBV infection, or both.

3 (4) The notification required under subsection (1) shall occur  
4 within 2 days after the test results are obtained by the health  
5 facility or after receipt of a written request under subsection  
6 (1)(b). The notification shall be transmitted to the potentially  
7 exposed individual or, upon request of the individual, to the  
8 individual's primary care physician or other health professional  
9 designated by the individual, as follows:

10 (a) If the potentially exposed individual provides his or her  
11 name and address or the name and address of the individual's  
12 primary care physician or other health professional designated by  
13 the individual to the health facility or if the health facility has  
14 a procedure that allows the health facility in the ordinary course  
15 of its business to determine the individual's name and address or  
16 the name and address of the individual's primary care physician or  
17 other health professional designated by the individual, the health  
18 facility shall notify the individual or the individual's primary  
19 care physician or other health professional designated by the  
20 individual directly at that address.

21 (b) If the potentially exposed individual is a police officer,  
22 fire fighter, or individual licensed under section 20950 or 20952,  
23 and if the health facility does not have the name of the  
24 potentially exposed individual or the individual's primary care  
25 physician or other health professional designated by the  
26 individual, the health facility shall notify the appropriate police  
27 department, fire department, or life support agency that employs or

1 dispatches the individual. If the health facility is unable to  
2 determine the employer of an individual described in this  
3 subdivision, the health facility shall notify the medical control  
4 authority or chief elected official of the governmental unit that  
5 has jurisdiction over the transporting vehicle.

6 (c) A medical control authority or chief elected official  
7 described in subdivision (b) shall notify the potentially exposed  
8 individual or the individual's primary care physician or other  
9 health professional designated by the individual or, if unable to  
10 notify the potentially exposed individual or the individual's  
11 primary care physician or other health professional designated by  
12 the individual, shall document in writing the notification efforts  
13 and reasons for being unable to make the notification.

14 (5) The notice required under subsection (1) shall not contain  
15 information that would identify the emergency patient who tested  
16 positive for an infectious agent or who tested positive or negative  
17 for the presence in the emergency patient of the infectious agent  
18 of HIV or HBV. The information contained in the notice is  
19 confidential and is subject to this section, the rules promulgated  
20 under section ~~5111(2)~~**5111**, and section 5131. A person who receives  
21 confidential information under this section shall disclose the  
22 information to others only to the extent consistent with the  
23 authorized purpose for which the information was obtained.

24 (6) The department shall promulgate rules to administer this  
25 section. The department shall develop and distribute the forms  
26 required under subsections (1)(a) and (c) and (2).

27 (7) Except as otherwise provided in this subsection, a person

1 who discloses information regarding an infectious agent in  
2 violation of subsection (5) is guilty of a misdemeanor. This  
3 subsection does not apply to the disclosure of information  
4 regarding a serious communicable disease or infection, if the  
5 disclosure is subject to rules promulgated under section ~~5111(2)~~  
6 ~~5111~~ or to section 5131.

7 (8) A person or governmental entity that makes a good faith  
8 effort to comply with subsection (1), (2), (3), or (4) is immune  
9 from any civil liability or criminal penalty based on compliance or  
10 the failure to comply.

11 (9) As used in this section:

12 (a) "Emergency patient" means an individual who is transported  
13 to an organized emergency department located in and operated by a  
14 hospital licensed under this article or a facility other than a  
15 hospital that is routinely available for the general care of  
16 medical patients.

17 (b) "HBV" means hepatitis B virus.

18 (c) "HBV infected" or "HBV infection" means the status of an  
19 individual who is tested as HBsAg-positive.

20 (d) "Health facility" means a health facility or agency as  
21 defined in section 20106.

22 (e) "HIV" means human immunodeficiency virus.

23 (f) "HIV infected" means that term as defined in section 5101.

24 (g) "Infectious agent" means that term as defined in R  
25 325.9031 of the Michigan administrative code.

26 (h) "Life support agency" means that term as defined in  
27 section 20906.

1           (i) "Serious communicable disease or infection" means that  
2 term as defined in section 5101.

3           Enacting section 1. This amendatory act does not take effect  
4 unless Senate Bill No.\_\_\_\_ or House Bill No. 4901(request no.  
5 02505'09 a) of the 95th Legislature is enacted into law.