

HOUSE BILL No. 4901

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

A bill to amend 1953 PA 232, entitled
"Corrections code of 1953,"
by amending section 67b (MCL 791.267b), as added by 1996 PA 565.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 67b. (1) If an employee of the department sustains a
2 percutaneous, mucous membrane, or open wound exposure to the blood
3 or body fluids of a prisoner, the employee may request that the
4 prisoner be tested for HIV infection or HBV infection, or both,
5 pursuant to this section.

6 (2) An employee shall make a request described in subsection
7 (1) to the department in writing on a form provided by the
8 department within 72 hours after the exposure occurs. The request
9 form shall be dated and shall contain at a minimum the name and
10 address of the employee making the request and a description of his

1 or her exposure to the blood or other body fluids of the prisoner.
2 The request form shall contain a space for the information required
3 under subsection (6) and a statement that the requester is subject
4 to the confidentiality requirements of subsection (8) and section
5 5131 of the public health code, ~~Act No. 368 of the Public Acts of~~
6 ~~1978, being section 333.5131 of the Michigan Compiled Laws 1978 PA~~
7 **368, MCL 333.5131**. The request form shall not contain information
8 that would identify the prisoner.

9 (3) Upon receipt of a request under this section, the
10 department shall make a determination as to whether or not there is
11 reasonable cause to believe that the exposure described in the
12 request occurred and if it was a percutaneous, mucous membrane, or
13 open wound exposure pursuant to R 325.70001 to R 325.70018 of the
14 Michigan administrative code. If the department determines that
15 there is reasonable cause to believe that the exposure described in
16 the request occurred and was a percutaneous, mucous membrane, or
17 open wound exposure, the department shall test the prisoner for HIV
18 infection or HBV infection, or both, as indicated in the request,
19 subject to subsection (4).

20 (4) In order to protect the health, safety, and welfare of
21 department employees, the department may test a prisoner under
22 subsection (3) whether or not the prisoner consents to the test.
23 The department is not required to give the prisoner an opportunity
24 for a hearing or to obtain an order from a court of competent
25 jurisdiction before administering the test.

26 (5) The department is not required to provide HIV counseling
27 pursuant to section 5133(1) of ~~Act No. 368 of the Public Acts of~~

1 ~~1978, being section 333.5133 of the Michigan Compiled Laws~~ **THE**
2 **PUBLIC HEALTH CODE, 1978 PA 368, MCL 333.5133**, to an employee who
3 requests that a prisoner be tested for HIV under this section,
4 unless the department tests the employee for HIV.

5 (6) The department shall comply with this subsection if the
6 department receives a request under this section and determines
7 either that there is not reasonable cause to believe the
8 requester's description of his or her exposure or that the exposure
9 was not a percutaneous, mucous membrane, or open wound exposure and
10 as a result of the determination the department is not required to
11 test the prisoner for HIV infection or HBV infection, or both. The
12 department shall state in writing on the request form the reason it
13 determined there was not reasonable cause to believe the
14 requester's description of his or her exposure or for the
15 department's determination that the exposure was not a
16 percutaneous, mucous membrane, or open wound exposure, as
17 applicable. The department shall transmit a copy of the completed
18 request form to the requesting individual within 2 days after the
19 date the department makes the determination described in this
20 subsection.

21 (7) The department shall notify the requesting employee of the
22 HIV or HBV test results, or both, whether positive or negative,
23 within 2 days after the test results are obtained by the
24 department. The notification shall be transmitted directly to the
25 requesting employee or, upon request of the requesting employee, to
26 his or her primary care physician or other health professional
27 designated by the employee. The notice required under this

1 subsection shall include an explanation of the confidentiality
2 requirements of subsection (8).

3 (8) The notice required under subsection (7) shall not contain
4 information that would identify the prisoner who tested positive or
5 negative for HIV or HBV. The information contained in the notice is
6 confidential and is subject to this section, the rules promulgated
7 under section ~~5111(2) of Act No. 368 of the Public Acts of 1978,~~
8 ~~being section 333.5111 of the Michigan Compiled Laws~~ **5111 OF THE**
9 **PUBLIC HEALTH CODE, 1978 PA 368, MCL 333.5111**, and section 5131 of
10 ~~Act No. 368 of the Public Acts of 1978, being section 333.5131 of~~
11 ~~the Michigan Compiled Laws~~ **THE PUBLIC HEALTH CODE, 1978 PA 368, MCL**
12 **333.5131**. A person who receives confidential information under this
13 section shall disclose the information to others only to the extent
14 consistent with the authorized purpose for which the information
15 was obtained.

16 (9) The department shall develop and distribute the forms
17 required under this section.

18 (10) In addition to the penalties prescribed in the rules
19 promulgated under section ~~5111(2) of Act No. 368 of the Public Acts~~
20 ~~of 1978~~ **5111 OF THE PUBLIC HEALTH CODE, 1978 PA 368, MCL 333.5111**
21 and in section 5131 of ~~Act No. 368 of the Public Acts of 1978~~ **THE**
22 **PUBLIC HEALTH CODE, 1978 PA 368, MCL 333.5131**, a person who
23 discloses information in violation of subsection (8) is guilty of a
24 misdemeanor.

25 (11) The department shall report to the department of
26 community health each test result obtained under this section that
27 indicates that an individual is HIV infected, in compliance with

1 ~~section 5114 of Act No. 368 of the Public Acts of 1978, being~~
2 ~~section 333.5114 of the Michigan Compiled Laws~~ **THE PUBLIC HEALTH**
3 **CODE, 1978 PA 368, MCL 333.5114.**

4 (12) As used in this section:

5 (a) "Employee" means an individual who is employed by or under
6 contract to the department of corrections.

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

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

10 (d) "HIV" means human immunodeficiency virus.

11 (e) "HIV infected" means that term as defined in section 5101
12 ~~of Act No. 368 of the Public Acts of 1978, being section 333.5101~~
13 ~~of the Michigan Compiled Laws~~ **THE PUBLIC HEALTH CODE, 1978 PA 368,**
14 **MCL 333.5101.**

15 Enacting section 1. This amendatory act does not take effect
16 unless Senate Bill No. ____ or House Bill No. 4899(request no.
17 02505'09) of the 95th Legislature is enacted into law.