

Act No. 535
Public Acts of 2018
Approved by the Governor
December 27, 2018
Filed with the Secretary of State
December 28, 2018
EFFECTIVE DATE: March 28, 2019

**STATE OF MICHIGAN
99TH LEGISLATURE
REGULAR SESSION OF 2018**

Introduced by Rep. Vaupel

ENROLLED HOUSE BILL No. 6018

AN ACT to amend 1978 PA 368, entitled “An act to protect and promote the public health; to codify, revise, consolidate, classify, and add to the laws relating to public health; to provide for the prevention and control of diseases and disabilities; to provide for the classification, administration, regulation, financing, and maintenance of personal, environmental, and other health services and activities; to create or continue, and prescribe the powers and duties of, departments, boards, commissions, councils, committees, task forces, and other agencies; to prescribe the powers and duties of governmental entities and officials; to regulate occupations, facilities, and agencies affecting the public health; to regulate health maintenance organizations and certain third party administrators and insurers; to provide for the imposition of a regulatory fee; to provide for the levy of taxes against certain health facilities or agencies; to promote the efficient and economical delivery of health care services, to provide for the appropriate utilization of health care facilities and services, and to provide for the closure of hospitals or consolidation of hospitals or services; to provide for the collection and use of data and information; to provide for the transfer of property; to provide certain immunity from liability; to regulate and prohibit the sale and offering for sale of drug paraphernalia under certain circumstances; to provide for the implementation of federal law; to provide for penalties and remedies; to provide for sanctions for violations of this act and local ordinances; to provide for an appropriation and supplements; to repeal certain acts and parts of acts; to repeal certain parts of this act; and to repeal certain parts of this act on specific dates,” by amending section 5133 (MCL 333.5133), as amended by 2010 PA 320.

The People of the State of Michigan enact:

Sec. 5133. (1) Except as otherwise provided by law, a physician who orders an HIV test or a health facility that performs an HIV test shall provide information appropriate to the test subject both before and after the test is administered.

(2) A test subject or his or her authorized representative who provides general informed consent for medical care is considered to have consented to an HIV test. A separate consent form for an HIV test is not required. However, except as otherwise provided by law, a health care provider shall not order an HIV test for a test subject without first doing both of the following:

(a) Informing the test subject or his or her legally authorized representative verbally or in writing that an HIV test will be performed unless the test subject or his or her legally authorized representative declines the HIV test.

(b) Offering the test subject or his or her legally authorized representative an opportunity to ask questions and decline the HIV test.

(3) If a test subject or the test subject’s legally authorized representative declines an HIV test under subsection (2), the decision must be documented in the test subject’s medical record.

(4) If a test subject undergoes an HIV test at a department approved testing site and the test results of the HIV test performed under this subsection indicate that the test subject is HIV infected, the staff of the department approved

testing site shall proceed with partner notification in the same manner in which a local health department would proceed as described in section 5114a(3) to (5).

(5) This section does not apply to an HIV test performed for the purpose of research, if the test is performed in such a manner that the identity of the test subject is not revealed to the researcher and the test results are not made known to the test subject.

(6) Except as otherwise provided in subsection (8), this section does not apply to an HIV test performed on a patient in a health facility if the conditions in subdivisions (a) and (b) or the conditions in subdivisions (a) and (c) are met:

(a) The patient is informed in writing upon admission to the health facility that an HIV test may be performed on the patient without his or her right to decline under circumstances described in subdivision (b) or (c). As used in this subdivision, "admission" means the provision of an inpatient or outpatient health care service in a health facility.

(b) The HIV test is performed after a health professional, health facility employee, police officer, or fire fighter, or a medical first responder, emergency medical technician, emergency medical technician specialist, or paramedic licensed under section 20950 or 20952 sustains in the health facility, while treating the patient before transport to the health facility, or while transporting the patient to the health facility, a percutaneous, mucous membrane, or open wound exposure to the blood or other body fluids of the patient.

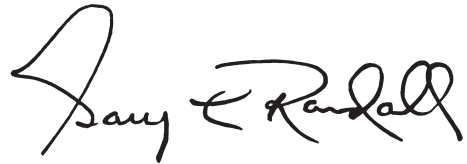
(c) The HIV test is performed pursuant to a request made under section 20191(2).

(7) Except as otherwise provided in subsection (8), this section does not apply if the test subject is unable to receive or understand the information described in subsections (1) and (2) or to decline the test as described in subsection (3), and a legally authorized representative of the test subject is not readily available to receive the information or decline for the test subject.

(8) If the results of an HIV test performed under this section indicate that the patient is HIV infected, the health facility shall inform the patient of the positive test results and shall provide the patient with appropriate counseling regarding HIV infection and acquired immunodeficiency syndrome and referrals to expedite HIV treatment and services. If the results of an HIV test performed under this section indicate that the patient is not HIV infected, that information must be provided to the patient through normal health care provider procedures.

Enacting section 1. This amendatory act takes effect 90 days after the date it is enacted into law.

This act is ordered to take immediate effect.



Clerk of the House of Representatives



Secretary of the Senate

Approved

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Governor