

1 AN ACT relating to information on patient test results.

2 ***Be it enacted by the General Assembly of the Commonwealth of Kentucky:***

3 ➔Section 1. KRS 214.181 is amended to read as follows:

4 (1) The General Assembly finds that the use of tests designed to reveal a condition  
5 indicative of human immunodeficiency virus (HIV) infection can be a valuable tool  
6 in protecting the public health. The General Assembly finds that knowledge of HIV  
7 status is increasingly important for all persons since treatment using antiretroviral  
8 medications can slow disease progression, prolong and improve the lives of HIV-  
9 positive individuals, and reduce the likelihood of perinatal mother-to-child  
10 transmission. Many members of the public are deterred from seeking testing  
11 because they misunderstand the nature of the test or fear that test results will be  
12 disclosed without their consent. The General Assembly finds that the public health  
13 will be served by facilitating informed, voluntary, and confidential use of tests  
14 designed to detect human immunodeficiency virus infection.

15 (2) A person who has signed a general consent form for the performance of medical  
16 procedures and tests is not required to also sign or be presented with a specific  
17 consent form relating to medical procedures or tests to determine human  
18 immunodeficiency virus infection, antibodies to human immunodeficiency virus, or  
19 infection with any other causative agent of acquired immunodeficiency syndrome  
20 that will be performed on the person during the time in which the general consent  
21 form is in effect. However, a general consent form shall instruct the patient that, as  
22 part of the medical procedures or tests, the patient may be tested for human  
23 immunodeficiency virus infection, hepatitis, or any other blood-borne infectious  
24 disease if a doctor or advanced practice registered nurse orders the test for  
25 diagnostic purposes. Except as otherwise provided in subsection (5)(d) of this  
26 section, the results of a test or procedure to determine human immunodeficiency  
27 virus infection, antibodies to human immunodeficiency virus, or infection with any

1       probable causative agent of acquired immunodeficiency syndrome performed under  
2       the authorization of a general consent form shall be used only for diagnostic or  
3       other purposes directly related to medical treatment.

4       (3) In any emergency situation where informed consent of the patient cannot reasonably  
5       be obtained before providing health-care services, there is no requirement that a  
6       health-care provider obtain a previous informed consent.

7       (4) The physician or advanced practice registered nurse who orders the test pursuant to  
8       subsections (1) and (2) of this section, or the attending physician, or designee, shall  
9       be responsible for informing the patient of the results of the test if the test results are  
10      positive for human immunodeficiency virus infection. If the tests are positive, the  
11      physician or advanced practice registered nurse or designee, shall also be  
12      responsible for either:

13      (a) Providing information and counseling to the patient concerning his infection  
14      or diagnosis and the known medical implications of such status or condition;  
15      or

16      (b) Referring the patient to another appropriate professional or health-care facility  
17      for the information and counseling.

18      (5) (a) No person in this state shall perform a test designed to identify the human  
19      immunodeficiency virus, or its antigen or antibody, without first obtaining the  
20      informed consent of the person upon whom the test is being performed, except  
21      as specified in subsections (2) and (3) of this section.

22      (b) No test result shall be determined as positive, and no positive test result shall  
23      be revealed to any person, without corroborating or confirmatory tests being  
24      conducted.

25      (c) 1. Nothing in this subsection shall be construed as prohibiting the  
26      disclosure to the patient of preliminary positive results from HIV rapid  
27      tests if results are delivered with an explanation of the following:

- 1           a.    The meaning of a reactive rapid test;
- 2           b.    The importance of confirmatory testing; and
- 3           c.    The importance of taking precautions to reduce the risk of
- 4                 infecting others while awaiting the results of confirmatory testing.
- 5           2.    In special cases where immediate actions may be necessary to protect a
- 6                 patient, such as potential perinatal transmission or incidents warranting
- 7                 post-exposure prophylaxis, a preliminary positive result from a HIV
- 8                 rapid test may be disclosed to the patient and used as a basis to
- 9                 recommend options for prophylaxis or treatment.
- 10         (d)  No person who has obtained or has knowledge of a test result pursuant to this
- 11                 section shall disclose or be compelled to disclose the identity of any person
- 12                 upon whom a test is performed, or the results of the test in a manner which
- 13                 permits identification of the subject of the test, except to the following
- 14                 persons:
- 15                 1.    The subject of the test or the subject's legally authorized representative;
- 16                 2.    Any person designated in a legally effective release of the test results
- 17                 executed prior to or after the test by the subject of the test or the
- 18                 subject's legally authorized representative;
- 19                 3.    A physician, nurse, or other health-care personnel who has a legitimate
- 20                 need to know the test result in order to provide for his protection and to
- 21                 provide for the patient's health and welfare;
- 22                 4.    Health-care providers consulting between themselves or with health-care
- 23                 facilities to determine diagnosis and treatment;
- 24                 5.    The cabinet, in accordance with rules for reporting and controlling the
- 25                 spread of disease, as otherwise provided by state law;
- 26                 6.    A health facility or health-care provider which procures, processes,
- 27                 distributes, or uses:

- 1           a. A human body part from a deceased person, with respect to  
2           medical information regarding that person; or
- 3           b. Semen provided prior to the effective date of this section for the  
4           purpose of artificial insemination;
- 5           7. Health facility staff committees, for the purposes of conducting program  
6           monitoring, program evaluation, or service reviews;
- 7           8. Authorized medical or epidemiological researchers who shall not further  
8           disclose any identifying characteristics or information;
- 9           9. A person allowed access by a court order that is issued in compliance  
10          with the following provisions:
- 11          a. No court of this state shall issue an order to permit access to a test  
12          for human immunodeficiency virus performed in a medical or  
13          public health setting to any person not authorized by this section or  
14          by KRS 214.420. A court may order an individual to be tested for  
15          human immunodeficiency virus only if the person seeking the test  
16          results has demonstrated a compelling need for the test results  
17          which cannot be accommodated by other means. In assessing  
18          compelling need, the court shall weigh the need for testing and  
19          disclosure against the privacy interest of the test subject and the  
20          public interest which may be disserved by disclosure which deters  
21          blood, organ, and semen donation and future human-  
22          immunodeficiency-virus-related testing or which may lead to  
23          discrimination. This paragraph shall not apply to blood bank donor  
24          records;
- 25          b. Pleadings pertaining to disclosure of test results shall substitute a  
26          pseudonym for the true name of the subject of the test. The  
27          disclosure to the parties of the subject's true name shall be

1                   communicated confidentially, in documents not filed with the  
2                   court;

3                   c. Before granting any order, the court shall provide the individual  
4                   whose test result is in question with notice and a reasonable  
5                   opportunity to participate in the proceedings if he or she is not  
6                   already a party;

7                   d. Court proceedings as to disclosure of test results shall be  
8                   conducted in camera, unless the subject of the test agrees to a  
9                   hearing in open court or unless the court determines that a public  
10                  hearing is necessary to the public interest and the proper  
11                  administration of justice;

12                  e. Upon the issuance of an order to disclose test results, the court  
13                  shall impose appropriate safeguards against unauthorized  
14                  disclosure, which shall specify the persons who may have access to  
15                  the information, the purposes for which the information shall be  
16                  used, and appropriate prohibitions on future disclosure.

17                  No person to whom the results of a test have been disclosed shall disclose the  
18                  test results to another person except as authorized by this subsection. When  
19                  disclosure is made pursuant to this subsection, it shall be accompanied by a  
20                  statement in writing that includes the following or substantially similar  
21                  language: "This information has been disclosed to you from records whose  
22                  confidentiality is protected by state law. State law prohibits you from making  
23                  any further disclosure of such information without the specific written consent  
24                  of the person to whom such information pertains, or as otherwise permitted by  
25                  state law. A general authorization for the release of medical or other  
26                  information is NOT sufficient for this purpose." An oral disclosure shall be  
27                  accompanied by oral notice and followed by a written notice within ten (10)

1 days.

- 2 (6) (a) The Cabinet for Health and Family Services shall establish a network of  
3 voluntary human immunodeficiency virus testing programs in every county in  
4 the state. These programs shall be conducted in each public health department  
5 established under the provisions of KRS Chapter 212. Additional programs  
6 may be contracted to other private providers to the extent that finances permit  
7 and local circumstances dictate.
- 8 (b) Each public health department shall have the ability to provide counseling and  
9 testing for the human immunodeficiency virus to each patient who receives  
10 services and shall offer the testing on a voluntary basis to each patient who  
11 requests the test.
- 12 (c) Each public health department shall provide a program of counseling and  
13 testing for human immunodeficiency virus infection, on an anonymous or  
14 confidential basis, dependent on the patient's desire. If the testing is performed  
15 on an anonymous basis, only the statistical information relating to a positive  
16 test for human immunodeficiency virus infection shall be reported to the  
17 cabinet. If the testing is performed on a confidential basis, the name and other  
18 information specified under KRS 214.645 shall be reported to the cabinet. The  
19 cabinet shall continue to provide for anonymous testing and counseling.
- 20 (d) The result of a serologic test conducted under the auspices of the cabinet shall  
21 not be used to determine if a person may be insured for disability, health, or  
22 life insurance or to screen or determine suitability for, or to discharge a person  
23 from, employment. Any person who violates the provisions of this subsection  
24 shall be guilty of a Class A misdemeanor.
- 25 (7) No public health department and no other private or public facility shall be  
26 established for the primary purpose of conducting a testing program for acquired  
27 immunodeficiency syndrome, acquired immunodeficiency syndrome related

1 complex, or human immunodeficiency virus status without first registering with the  
2 cabinet, complying with all other applicable provisions of state law, and meeting the  
3 following requirements:

- 4 (a) The program shall be directed by a person who has completed an educational  
5 course approved by the cabinet in the counseling of persons with acquired  
6 immunodeficiency syndrome, acquired immunodeficiency syndrome related  
7 complex, or human immunodeficiency virus infection;
- 8 (b) The program shall have all medical care supervised by a physician licensed  
9 under the provisions of KRS Chapter 311;
- 10 (c) The program shall have all laboratory procedures performed in a laboratory  
11 licensed under the provisions of KRS Chapter 333;
- 12 (d) Informed consent shall be required prior to testing. Informed consent shall be  
13 preceded by an explanation of the test, including its purpose, potential uses,  
14 and limitations and the meaning of its results;
- 15 (e) The program, unless it is a blood donor center, shall provide pretest  
16 counseling on the meaning of a test for human immunodeficiency virus,  
17 including medical indications for the test; the possibility of false positive or  
18 false negative results; the potential need for confirmatory testing; the potential  
19 social, medical, and economic consequences of a positive test result; and the  
20 need to eliminate high-risk behavior;
- 21 (f) The program shall provide supplemental corroborative testing on all positive  
22 test results before the results of any positive test is provided to the patient;
- 23 (g) The program shall provide post-test counseling, in person, on the meaning of  
24 the test results; the possible need for additional testing; the social, medical,  
25 and economic consequences of a positive test result; and the need to eliminate  
26 behavior which might spread the disease to others;
- 27 (h) Each person providing post-test counseling to a patient with a positive test

1 result shall receive specialized training, to be specified by regulation of the  
2 cabinet, about the special needs of persons with positive results, including  
3 recognition of possible suicidal behavior, and shall refer the patient for further  
4 health and social services as appropriate;

5 (i) When services are provided for a charge during pretest counseling, testing,  
6 supplemental testing, and post-test counseling, the program shall provide a  
7 complete list of all charges to the patient and the cabinet; and

8 (j) Nothing in this subsection shall be construed to require a facility licensed  
9 under KRS Chapter 333 or a person licensed under the provisions of KRS  
10 Chapters 311, 312, or 313 to register with the cabinet if he or she does not  
11 advertise or hold himself or herself out to the public as conducting testing  
12 programs for human immunodeficiency virus infection or specializing in such  
13 testing.

14 (8) Any violation of this section by a licensed health-care provider shall be a ground for  
15 disciplinary action contained in the professional's respective licensing chapter.

16 (9) Except as provided in subsection (6)(d) of this section, insurers and others  
17 participating in activities related to the insurance application and underwriting  
18 process shall be exempt from this section.

19 (10) The cabinet shall develop program standards consistent with the provisions of this  
20 section for counseling and testing persons for the human immunodeficiency virus.

21 ➔Section 2. KRS 214.625 is amended to read as follows:

22 (1) The General Assembly finds that the use of tests designed to reveal a condition  
23 indicative of human immunodeficiency virus (HIV) infection can be a valuable tool  
24 in protecting the public health. The General Assembly finds that despite current  
25 scientific knowledge that antiretroviral therapy (ART)~~[zidovudine (AZT)]~~ prolongs  
26 the lives of acquired immunodeficiency syndrome victims, and may also be  
27 effective when introduced in the early stages of human immunodeficiency virus



1 infection, many members of the public are deterred from seeking testing because  
2 they misunderstand the nature of the test or fear that test results will be disclosed  
3 without their consent. The General Assembly finds that the public health will be  
4 served by facilitating informed, voluntary, and confidential use of tests designed to  
5 detect human immunodeficiency virus infection.

6 (2) A person who has signed a general consent form for the performance of medical  
7 procedures and tests is not required to also sign or be presented with a specific  
8 consent form relating to medical procedures or tests to determine human  
9 immunodeficiency virus infection, antibodies to human immunodeficiency virus, or  
10 infection with any other causative agent of acquired immunodeficiency syndrome  
11 that will be performed on the person during the time in which the general consent  
12 form is in effect. However, a general consent form shall instruct the patient that, as  
13 part of the medical procedures or tests, the patient may be tested for human  
14 immunodeficiency virus infection, hepatitis, or any other blood-borne infectious  
15 disease if a doctor or advanced practice registered nurse orders the test for  
16 diagnostic purposes. Except as otherwise provided in subsection (5)(c) of this  
17 section, the results of a test or procedure to determine human immunodeficiency  
18 virus infection, antibodies to human immunodeficiency virus, or infection with any  
19 probable causative agent of acquired immunodeficiency syndrome performed under  
20 the authorization of a general consent form shall be used only for diagnostic or  
21 other purposes directly related to medical treatment.

22 (3) In any emergency situation where informed consent of the patient cannot reasonably  
23 be obtained before providing health-care services, there is no requirement that a  
24 health-care provider obtain a previous informed consent.

25 (4) The physician or advanced practice registered nurse who orders the test pursuant to  
26 subsections (1) and (2) of this section, his or her designee, or the attending  
27 physician, shall be responsible for informing the patient of the results of the test if

1 the test results are positive for human immunodeficiency virus infection. If the tests  
2 are positive, the physician or advanced practice registered nurse, or his or her  
3 designee, shall also be responsible for either:

4 (a) Providing information and counseling to the patient concerning his infection  
5 or diagnosis and the known medical implications of such status or condition;  
6 or

7 (b) Referring the patient to another appropriate professional or health-care facility  
8 for the information and counseling.

9 (5) (a) No person in this state shall perform a test designed to identify the human  
10 immunodeficiency virus, or its antigen or antibody, without first obtaining the  
11 informed consent of the person upon whom the test is being performed, except  
12 as specified in subsections (2) and (3) of this section.

13 (b) No test result shall be determined as positive, and no positive test result shall  
14 be revealed to any person, without corroborating or confirmatory tests being  
15 conducted.

16 (c) No person who has obtained or has knowledge of a test result pursuant to this  
17 section shall disclose or be compelled to disclose the identity of any person  
18 upon whom a test is performed, or the results of the test in a manner which  
19 permits identification of the subject of the test, except to the following  
20 persons:

- 21 1. The subject of the test or the subject's legally authorized representative;
- 22 2. Any person designated in a legally effective release of the test results  
23 executed prior to or after the test by the subject of the test or the  
24 subject's legally authorized representative;
- 25 3. A physician, nurse, or other health-care personnel who has a legitimate  
26 need to know the test result in order to provide for his protection and to  
27 provide for the patient's health and welfare;

- 1           4. Health-care providers consulting between themselves or with health-care  
2           facilities to determine diagnosis and treatment;
- 3           5. The cabinet, in accordance with rules for reporting and controlling the  
4           spread of disease, as otherwise provided by state law;
- 5           6. A health facility or health-care provider which procures, processes,  
6           distributes, or uses:
  - 7           a. A human body part from a deceased person, with respect to  
8           medical information regarding that person; or
  - 9           b. Semen provided prior to July 13, 1990, for the purpose of artificial  
10           insemination;
- 11          7. Health facility staff committees, for the purposes of conducting program  
12          monitoring, program evaluation, or service reviews;
- 13          8. Authorized medical or epidemiological researchers who shall not further  
14          disclose any identifying characteristics or information;
- 15          9. A parent, foster parent, or legal guardian of a minor; a crime victim; or a  
16          person specified in KRS 438.250;
- 17          10. A person allowed access by a court order which is issued in compliance  
18          with the following provisions:
  - 19          a. No court of this state shall issue an order to permit access to a test  
20          for human immunodeficiency virus performed in a medical or  
21          public health setting to any person not authorized by this section or  
22          by KRS 214.420. A court may order an individual to be tested for  
23          human immunodeficiency virus only if the person seeking the test  
24          results has demonstrated a compelling need for the test results  
25          which cannot be accommodated by other means. In assessing  
26          compelling need, the court shall weigh the need for testing and  
27          disclosure against the privacy interest of the test subject and the

1 public interest which may be disserved by disclosure which deters  
2 blood, organ, and semen donation and future human  
3 immunodeficiency virus-related testing or which may lead to  
4 discrimination. This paragraph shall not apply to blood bank donor  
5 records;

6 b. Pleadings pertaining to disclosure of test results shall substitute a  
7 pseudonym for the true name of the subject of the test. The  
8 disclosure to the parties of the subject's true name shall be  
9 communicated confidentially, in documents not filed with the  
10 court;

11 c. Before granting any order, the court shall provide the individual  
12 whose test result is in question with notice and a reasonable  
13 opportunity to participate in the proceedings if he is not already a  
14 party;

15 d. Court proceedings as to disclosure of test results shall be  
16 conducted in camera, unless the subject of the test agrees to a  
17 hearing in open court or unless the court determines that a public  
18 hearing is necessary to the public interest and the proper  
19 administration of justice; and

20 e. Upon the issuance of an order to disclose test results, the court  
21 shall impose appropriate safeguards against unauthorized  
22 disclosure, which shall specify the persons who may have access to  
23 the information, the purposes for which the information shall be  
24 used, and appropriate prohibitions on future disclosure.

25 No person to whom the results of a test have been disclosed shall disclose the  
26 test results to another person except as authorized by this subsection. When  
27 disclosure is made pursuant to this subsection, it shall be accompanied by a

1 statement in writing which includes the following or substantially similar  
2 language: "This information has been disclosed to you from records whose  
3 confidentiality is protected by state law. State law prohibits you from making  
4 any further disclosure of such information without the specific written consent  
5 of the person to whom such information pertains, or as otherwise permitted by  
6 state law. A general authorization for the release of medical or other  
7 information is NOT sufficient for this purpose." An oral disclosure shall be  
8 accompanied by oral notice and followed by a written notice within ten (10)  
9 days.

10 (6) (a) The Cabinet for Health and Family Services shall establish a network of  
11 voluntary human immunodeficiency virus testing programs in every county in  
12 the state. These programs shall be conducted in each public health department  
13 established under the provisions of KRS Chapter 211. Additional programs  
14 may be contracted to other private providers to the extent that finances permit  
15 and local circumstances dictate.

16 (b) Each public health department shall have the ability to provide counseling and  
17 testing for the human immunodeficiency virus to each patient who receives  
18 services and shall offer the testing on a voluntary basis to each patient who  
19 requests the test.

20 (c) Each public health department shall provide a program of counseling and  
21 testing for human immunodeficiency virus infection, on an anonymous or  
22 confidential basis, dependent on the patient's desire. If the testing is performed  
23 on an anonymous basis, only the statistical information relating to a positive  
24 test for human immunodeficiency virus infection shall be reported to the  
25 cabinet. If the testing is performed on a confidential basis, the name and other  
26 information specified in KRS 214.645 shall be reported to the cabinet. The  
27 cabinet shall continue to provide for anonymous testing and counseling.

- 1 (d) The result of a serologic test conducted under the auspices of the cabinet shall  
2 not be used to determine if a person may be insured for disability, health, or  
3 life insurance or to screen or determine suitability for, or to discharge a person  
4 from, employment. Any person who violates the provisions of this subsection  
5 shall be guilty of a Class A misdemeanor.
- 6 (7) No public health department and no other person in this state shall conduct or hold  
7 themselves out to the public as conducting a testing program for acquired  
8 immunodeficiency syndrome, acquired immunodeficiency syndrome related  
9 complex, or human immunodeficiency virus status without first registering with the  
10 cabinet, complying with all other applicable provisions of state law, and meeting the  
11 following requirements:
- 12 (a) The program shall be directed by a person who has completed an educational  
13 course approved by the cabinet in the counseling of persons with acquired  
14 immunodeficiency syndrome, acquired immunodeficiency syndrome related  
15 complex, or human immunodeficiency virus infection;
- 16 (b) The program shall have all medical care supervised by a physician licensed  
17 under the provisions of KRS Chapter 311;
- 18 (c) The program shall have all laboratory procedures performed in a laboratory  
19 licensed under the provisions of KRS Chapter 333;
- 20 (d) Informed consent shall be required prior to testing. Informed consent shall be  
21 preceded by an explanation of the test, including its purpose, potential uses,  
22 and limitations and the meaning of its results;
- 23 (e) The program, unless it is a blood donor center, shall provide pretest  
24 counseling on the meaning of a test for human immunodeficiency virus,  
25 including medical indications for the test; the possibility of false positive or  
26 false negative results; the potential need for confirmatory testing; the potential  
27 social, medical, and economic consequences of a positive test result; and the

- 1           need to eliminate high-risk behavior;
- 2           (f) The program shall provide supplemental corroborative testing on all positive  
3           test results before the results of any positive test is provided to the patient;
- 4           (g) The program shall provide post-test counseling, in person, on the meaning of  
5           the test results; the possible need for additional testing; the social, medical,  
6           and economic consequences of a positive test result; and the need to eliminate  
7           behavior which might spread the disease to others;
- 8           (h) Each person providing post-test counseling to a patient with a positive test  
9           result shall receive specialized training, to be specified by regulation of the  
10          cabinet, about the special needs of persons with positive results, including  
11          recognition of possible suicidal behavior, and shall refer the patient for further  
12          health and social services as appropriate;
- 13          (i) When services are provided for a charge during pretest counseling, testing,  
14          supplemental testing, and post-test counseling, the program shall provide a  
15          complete list of all charges to the patient and the cabinet; and
- 16          (j) Nothing in this subsection shall be construed to require a facility licensed  
17          under KRS Chapter 333 or a person licensed under the provisions of KRS  
18          Chapters 311, 312, or 313 to register with the cabinet if he or she does not  
19          advertise or hold himself or herself out to the public as conducting testing  
20          programs for human immunodeficiency virus infection or specializing in such  
21          testing.
- 22       (8) Any violation of this section by a licensed health-care provider shall be a ground for  
23       disciplinary action contained in the professional's respective licensing chapter.
- 24       (9) Except as provided in subsection (6)(d) of this section and KRS 304.12-013,  
25       insurers and others participating in activities related to the insurance application and  
26       underwriting process shall be exempt from this section.
- 27       (10) The cabinet shall develop program standards consistent with the provisions of this

1 section for counseling and testing persons for the human immunodeficiency virus.

2 ➔Section 3. KRS 214.645 is amended to read as follows:

3 (1) The Cabinet for Health and Family Services shall establish a system for reporting,  
4 by the use of the person's name, of all persons who test positive for the human  
5 immunodeficiency virus (HIV) infection. The reporting shall include the data  
6 including, but not limited to, CD4 count and viral load, and other information that  
7 are necessary to comply with the confidentiality and reporting requirements of the  
8 most recent edition of the Centers for Disease Control and Prevention's (CDC)  
9 Guidelines for National Human Immunodeficiency Virus Case Surveillance. ~~[As~~  
10 ~~recommended by the CDC,]~~ Anonymous testing shall remain as an alternative. If  
11 less restrictive data identifying requirements are identified by the CDC, the cabinet  
12 shall evaluate the new requirements for implementation.

13 (2) The reporting system established under subsection (1) of this section shall:

14 (a) Use the same confidential name-based approach for HIV surveillance that is  
15 used for AIDS surveillance by the cabinet;

16 (b) Attempt to identify all modes of HIV transmission, unusual clinical or  
17 virologic manifestations, and other cases of public health importance;

18 (c) Require collection of the names and data from all private and public sources  
19 of HIV-related testing and care services; and

20 (d) Use reporting methods that match the CDC's standards for completeness,  
21 timeliness, and accuracy, and follow up, as necessary, with the health care  
22 provider or the provider's designee making the report to verify completeness,  
23 timeliness, and accuracy.

24 (3) Authorized surveillance staff designated by the cabinet shall:

25 (a) Match the information from the reporting system to other public health  
26 databases, wherever possible, to limit duplication and to better quantify the  
27 extent of HIV infection in the Commonwealth;



- 1 (b) Conduct a biennial assessment of the HIV and AIDS reporting systems, insure  
2 that the assessment is available for review by the public and any state or  
3 federal agency, and forward a copy of the assessment to the Legislative  
4 Research Commission and the Interim Joint Committee on Health and  
5 Welfare;
- 6 (c) Document the security policies and procedures and insure their availability for  
7 review by the public or any state or federal agency;
- 8 (d) Minimize storage and retention of unnecessary paper or electronic reports and  
9 insure that related policies are consistent with CDC technical guidelines;
- 10 (e) Assure that electronic transfer of data is protected by encryption during  
11 transfer;
- 12 (f) Provide that records be stored in a physically secluded area and protected by  
13 coded passwords and computer encryption;
- 14 (g) Restrict access to data a minimum number of authorized surveillance staff  
15 who are designated by a responsible authorizing official, who have been  
16 trained in confidentiality procedures, and who are aware of penalties for  
17 unauthorized disclosure of surveillance information;
- 18 (h) Require that any other public health program that receives data has  
19 appropriate security and confidentiality protections and penalties;
- 20 (i) Restrict use of data, from which identifying information has been removed, to  
21 cabinet-approved research, and require all persons with this use to sign  
22 confidentiality statements;
- 23 (j) Prohibit release of any names or any other identifying information that may  
24 have been received in a report to any person or organization, whether public or  
25 private, except in compliance with federal law or consultations with other  
26 state surveillance programs and reporting sources. Under no circumstances  
27 shall a name or any identifying information be reported to the CDC; and

1           (k) Immediately investigate any report of breach of reporting, surveillance, or  
2           confidentiality policy, report the breach to the CDC, develop  
3           recommendations for improvements in security measure, and take appropriate  
4           disciplinary action for any documented breach.

5   (4) The cabinet shall require any physician, advanced practice registered nurse,  
6       *designee*, or medical laboratory that receives a report of a positive test for the  
7       human immunodeficiency virus to report that information by reference to the name  
8       in accordance with the procedure for establishing name reporting required by the  
9       cabinet in an administrative regulation.