

1 AN ACT relating to human immunodeficiency virus.

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.