

**SUBSTITUTE FOR  
HOUSE BILL NO. 5072**

A bill to amend 1978 PA 368, entitled  
"Public health code,"  
by amending sections 5101, 5111, 5123, 5129, and 20191 (MCL  
333.5101, 333.5111, 333.5123, 333.5129, and 333.20191), sections  
5101, 5111, and 5123 as amended by 1994 PA 200, section 5129 as  
amended by 1995 PA 253, 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, con-  
3 finement, and isolation in a facility or other location.

4       (b) "Communicable disease" means an illness due to a spe-  
5 cific infectious agent or its toxic products that results from  
6 transmission of that infectious agent or its products from a  
7 reservoir to a susceptible host, directly as from an infected

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1 individual or animal, or indirectly through the agency of an  
2 intermediate plant or animal host, vector, or the inanimate  
3 environment.

4 (C) "HCV" MEANS HEPATITIS C VIRUS.

5 (D) "HCV INFECTION" OR "HCV INFECTED" MEANS THE STATUS OF AN  
6 INDIVIDUAL WHO HAS TESTED POSITIVE FOR HCV.

7 (E) ~~(c)~~ "HIV" means human immunodeficiency virus.

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

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

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

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

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1       (J) ~~(h)~~ "Venereal disease" means syphilis, gonorrhea,  
2 chancroid, lymphogranuloma venereum, granuloma inguinale, and  
3 other sexually transmitted diseases which the department by rule  
4 may designate and require to be reported.

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

8       Sec. 5111. (1) In carrying out its authority under this  
9 article, the department may promulgate rules to DO ALL OF THE  
10 FOLLOWING:

11       (a) Designate and classify DISEASES, INFECTIONS, AND DIS-  
12 ABILITIES AS "communicable", "serious communicable", "chronic",  
13 AND "other noncommunicable". ~~diseases, infections, and~~  
14 ~~disabilities.~~

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

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1 (c) Investigate cases, epidemics, and unusual occurrences of  
2 diseases, infections, and situations with a potential for causing  
3 diseases.

4 (d) Establish procedures for THE control of diseases and  
5 infections, including, but not limited to, immunization and envi-  
6 ronmental controls.

7 (e) Establish procedures for the prevention, detection, and  
8 treatment of disabilities and FOR THE rehabilitation of individu-  
9 als suffering from disabilities or disease, including nutritional  
10 problems.

11 (f) Establish procedures for control of rabies and the dis-  
12 position of nonhuman agents carrying disease, including rabid  
13 animals.

14 (g) Establish procedures for the reporting of known or sus-  
15 pected cases of lead poisoning or undue lead body burden.

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

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

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

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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  
4 and serious communicable diseases or infections covered under the  
5 rules and shall include, but are not limited to, hepatitis B,  
6 HEPATITIS C, venereal disease, and tuberculosis. The rules shall  
7 not apply to the serious communicable diseases or infections of  
8 HIV infection ~~—~~ or acquired immunodeficiency syndrome. The  
9 department shall submit the rules for public hearing under the  
10 administrative procedures act of 1969 by November 20, 1989.

11       Sec. 5123. (1) ~~A~~ AT THE TIME A PREGNANT WOMAN IS INI-  
12 TIALLY EXAMINED, A physician or an individual otherwise autho-  
13 rized by law to provide medical treatment to ~~a~~ THE pregnant  
14 woman shall take or cause to be taken ~~—, at the time of the~~  
15 ~~woman's initial examination,~~ test specimens of the woman and  
16 shall submit the specimens to a clinical laboratory approved by  
17 the department for the purpose of performing tests approved by  
18 the department for venereal disease, HIV or an antibody to HIV,  
19 ~~and for~~ hepatitis B, AND, IF DETERMINED MEDICALLY NECESSARY OR  
20 MEDICALLY ADVISABLE BY THE PHYSICIAN OR OTHER INDIVIDUAL, FOR  
21 HEPATITIS C. If ~~—, when~~ a woman presents at a health ~~care~~  
22 facility to deliver an infant or for care in the immediate post-  
23 partum period ~~having~~ IN THE CASE OF A WOMAN WHO HAS recently  
24 delivered an infant outside a health ~~care~~ facility, AND IF no  
25 record of results from the tests required by this subsection is  
26 readily available to the physician or individual otherwise  
27 authorized BY LAW to provide MEDICAL care OR TREATMENT in such a

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1 setting, then the physician or OTHER individual ~~otherwise~~  
2 ~~authorized to provide care~~ shall take or cause to be taken spec-  
3 imens of the woman and shall submit the specimens to a clinical  
4 laboratory approved by the department for the purpose of perform-  
5 ing department approved tests for venereal disease, ~~for~~ HIV or  
6 an antibody to HIV, ~~and for~~ hepatitis B, AND, IF DETERMINED  
7 MEDICALLY NECESSARY OR MEDICALLY ADVISABLE BY THE PHYSICIAN OR  
8 OTHER INDIVIDUAL, FOR HEPATITIS C. This subsection does not  
9 apply if, in the professional opinion of the physician or other  
10 ~~person~~ INDIVIDUAL, the tests are medically inadvisable or the  
11 woman does not consent to be tested.

12 (2) The physician or other individual described in subsec-  
13 tion (1) shall make and retain a record showing the date the  
14 tests required under subsection (1) were ordered and the results  
15 of the tests. If the tests were not ordered, ~~by the physician~~  
16 ~~or other person,~~ the ~~record~~ PHYSICIAN OR OTHER INDIVIDUAL  
17 DESCRIBED IN SUBSECTION (1) shall ~~contain~~ ENTER IN THE RECORD  
18 an explanation of why the tests were not ordered.

19 (3) The ~~test~~ results OF THE TESTS REQUIRED UNDER SUBSEC-  
20 TION (1) and the records required under subsection (2) are not  
21 public records, but shall be MADE available to a local health  
22 department and to a physician who provides medical treatment to  
23 the woman or her offspring.

24 Sec. 5129. (1) An individual arrested and charged with vio-  
25 lating section 448, 449, 449a, 450, 452, or 455 of the Michigan  
26 penal code, ~~Act No. 328 of the Public Acts of 1931, being~~  
27 ~~sections 750.448, 750.449, 750.449a, 750.450, 750.452, and~~

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1 ~~750.455 of the Michigan Compiled Laws~~ 1931 PA 328, MCL 750.448,  
2 750.449, 750.449A, 750.450, 750.452, AND 750.455, or a local  
3 ordinance prohibiting prostitution or engaging or offering to  
4 engage the services of a prostitute may, upon order of the court,  
5 be examined or tested to determine whether the individual has  
6 venereal disease, hepatitis B infection, HEPATITIS C INFECTION,  
7 HIV infection, or acquired immunodeficiency syndrome.  
8 Examination or test results that indicate the presence of vene-  
9 real disease, hepatitis B infection, HEPATITIS C INFECTION, HIV  
10 infection, or acquired immunodeficiency syndrome shall be  
11 reported to the defendant and, pursuant to sections 5114 and  
12 5114a, to the department and the appropriate local health depart-  
13 ment for partner notification.

14 (2) Except as otherwise provided in this section, if an  
15 individual is arrested and charged with violating section 145a,  
16 338, 338a, 338b, 448, 449, 449a, 450, 452, 455, 520b, 520c, 520d,  
17 520e, or 520g of the Michigan penal code, ~~Act No. 328 of the~~  
18 ~~Public Acts of 1931, being sections 750.145a, 750.338, 750.338a,~~  
19 ~~750.338b, 750.448, 750.449, 750.449a, 750.450, 750.452, 750.455,~~  
20 ~~750.520b, 750.520c, 750.520d, 750.520e, and 750.520g of the~~  
21 ~~Michigan Compiled Laws~~ 1931 PA 328, MCL 750.145A, 750.338,  
22 750.338A, 750.338B, 750.448, 750.449, 750.449A, 750.450, 750.452,  
23 750.455, 750.520B, 750.520C, 750.520D, 750.520E, AND 750.520G, or  
24 section 7404 by intravenously using a controlled substance, or a  
25 local ordinance prohibiting prostitution, solicitation, gross  
26 indecency, or the intravenous use of a controlled substance, the  
27 judge or magistrate responsible for setting the individual's

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1 conditions of release pending trial shall distribute to the  
2 individual the information on venereal disease and HIV transmis-  
3 sion required to be distributed by county clerks under section  
4 5119(1) and shall recommend that the individual obtain additional  
5 information and counseling at a local health department testing  
6 and counseling center regarding venereal disease, hepatitis B  
7 infection, HEPATITIS C INFECTION, HIV infection, and acquired  
8 immunodeficiency syndrome. Counseling under this subsection  
9 ~~shall be~~ IS voluntary on the part of the individual.

10 (3) If a defendant is bound over to circuit court or  
11 recorder's court for a violation of section 145a, 338, 338a,  
12 338b, 450, 452, 455, 520b, 520c, 520d, 520e, or 520g of ~~Act~~  
13 ~~No. 328 of the Public Acts of 1931~~ THE MICHIGAN PENAL CODE, 1931  
14 PA 328, MCL 750.145A, 750.338, 750.338A, 750.338B, 750.450,  
15 750.452, 750.455, 750.520B, 750.520C, 750.520D, 750.520E, AND  
16 750.520G, and the district court determines there is reason to  
17 believe the violation involved sexual penetration or exposure to  
18 a body fluid of the defendant, the district court shall order the  
19 defendant to be examined or tested for venereal disease, ~~and~~  
20 hepatitis B infection, AND HEPATITIS C INFECTION and for the  
21 presence of HIV or an antibody to HIV. Except as provided in  
22 subsection (5), (6), or (7), or as otherwise provided by law, the  
23 examinations and tests shall be confidentially administered by a  
24 licensed physician, the department of ~~public~~ COMMUNITY health,  
25 or a local health department. The court also shall order the  
26 defendant to receive counseling regarding venereal disease,  
27 hepatitis B infection, HEPATITIS C INFECTION, HIV infection, and



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1 acquired immunodeficiency syndrome including, at a minimum,  
2 information regarding treatment, transmission, and protective  
3 measures.

4 (4) Except as otherwise provided in this section, upon con-  
5 viction of a defendant or the issuance by the ~~probate~~ FAMILY  
6 DIVISION OF THE CIRCUIT court of an order adjudicating a child to  
7 be within the provisions of section 2(a)(1) of chapter XIIIA of  
8 ~~Act No. 288 of the Public Acts of 1939, being section 712A.2 of~~  
9 ~~the Michigan Compiled Laws~~ 1939 PA 288, MCL 712A.2, for violat-  
10 ing section 145a, 338, 338a, 338b, 448, 449, 449a, 450, 452, 455,  
11 520b, 520c, 520d, 520e, or 520g of ~~Act No. 328 of the Public~~  
12 ~~Acts of 1931, being sections 750.145a, 750.338, 750.338a,~~  
13 ~~750.338b, 750.448, 750.449, 750.449a, 750.450, 750.452, 750.455,~~  
14 ~~750.520b, 750.520c, 750.520d, 750.520e, and 750.520g of the~~  
15 ~~Michigan Compiled Laws~~ THE MICHIGAN PENAL CODE, 1931 PA 328, MCL  
16 750.145A, 750.338, 750.338A, 750.338B, 750.448, 750.449,  
17 750.449A, 750.450, 750.452, 750.455, 750,520B, 750.520C,  
18 750.520D, 750.520E, AND 750.520G, or section 7404 by intrave-  
19 nously using a controlled substance, or a local ordinance prohib-  
20 iting prostitution, solicitation, gross indecency, or the intra-  
21 venous use of a controlled substance, the court having jurisdic-  
22 tion of the criminal prosecution or juvenile hearing shall order  
23 the defendant or child to be examined or tested for venereal dis-  
24 ease, ~~and~~ hepatitis B infection, AND HEPATITIS C INFECTION and  
25 for the presence of HIV or an antibody to HIV. Except as pro-  
26 vided in subsection (5), (6), or (7), or as otherwise provided by  
27 law, the examinations and tests shall be confidentially

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1 administered by a licensed physician, the department of ~~public~~  
2 COMMUNITY health, or a local health department. The court also  
3 shall order the defendant or child to receive counseling regard-  
4 ing venereal disease, hepatitis B infection, HEPATITIS C  
5 INFECTION, HIV infection, and acquired immunodeficiency syndrome  
6 including, at a minimum, information regarding treatment, trans-  
7 mission, and protective measures.

8 (5) If the victim or person with whom the defendant or child  
9 found to be within the provisions of section 2(a)(1) of chapter  
10 XIIA of ~~Act No. 288 of the Public Acts of 1939~~ 1939 PA 288, MCL  
11 712A.2, engaged in sexual penetration or sexual contact or who  
12 was exposed to a body fluid during the course of the crime con-  
13 sents, the court or ~~probate~~ FAMILY DIVISION OF THE CIRCUIT  
14 court shall provide the person or agency conducting the examina-  
15 tions or administering the tests under subsection (3) or (4) with  
16 the name, address, and telephone number of the victim or person  
17 with whom the defendant or child engaged in sexual penetration or  
18 sexual contact or who was exposed to a body fluid of the  
19 defendant during the course of the crime. If the victim or  
20 person with whom the defendant or child engaged in sexual pene-  
21 tration during the course of the crime is a minor or otherwise  
22 incapacitated, the victim's or person's parent, guardian, or  
23 person in loco parentis may give consent for purposes of this  
24 subsection. After the defendant or child is examined or tested  
25 as to the presence of venereal disease, ~~of~~ hepatitis B infec-  
26 tion, HEPATITIS C INFECTION, or of HIV or an antibody to HIV, the  
27 person or agency conducting the examinations or administering the

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1 tests shall immediately provide the examination or test results  
2 to the victim or person with whom the defendant or child found to  
3 be within the provisions of section 2(a)(1) of chapter XIIIA of  
4 ~~Act No. 288 of the Public Acts of 1939~~ 1939 PA 288, MCL 712A.2,  
5 engaged in sexual penetration or sexual contact or who was  
6 exposed to a body fluid during the course of the crime, and shall  
7 refer the victim or other person for appropriate counseling.

8       (6) The examination or test results and any other medical  
9 information obtained from the defendant or child found to be  
10 within the provisions of section 2(a)(1) of chapter XIIIA of ~~Act~~  
11 ~~No. 288 of the Public Acts of 1939~~ 1939 PA 288, MCL 712A.2, by  
12 the person or agency conducting the examinations or administering  
13 the tests under subsection (3) or (4) shall be transmitted to the  
14 court or ~~probate~~ FAMILY DIVISION OF THE CIRCUIT court and,  
15 after the defendant or child is sentenced or an order of disposi-  
16 tion is entered, made part of the court record, but are confiden-  
17 tial and shall be disclosed only to 1 or more of the following:

18       (a) The defendant or child.

19       (b) The local health department.

20       (c) The department.

21       (d) The victim or other person required to be informed of  
22 the results under this subsection or subsection (5) or, if the  
23 victim or other person is a minor or otherwise incapacitated, to  
24 the victim's or other person's parent, guardian, or person in  
25 loco parentis.

26       (e) Upon written authorization of the defendant or child  
27 found to be within the provisions of section 2(a)(1) of chapter

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1 XIIIA of ~~Act No. 288 of the Public Acts of 1939~~ 1939 PA 288, MCL  
2 712A.2, or the child's parent, guardian, or person in loco  
3 parentis.

4 (f) As otherwise provided by law.

5 (7) If the defendant is placed in the custody of the depart-  
6 ment of corrections, the court shall transmit a copy of the  
7 defendant's examination and test results and other medical infor-  
8 mation to the department of corrections. If the child found to  
9 be within the provisions of section 2(a)(1) of chapter XIIIA of  
10 ~~Act No. 288 of the Public Acts of 1939~~ 1939 PA 288, MCL 712A.2,  
11 is placed by the ~~probate~~ FAMILY DIVISION OF THE CIRCUIT court  
12 in the custody of a person related to the child or a public or  
13 private agency, institution, or facility, the ~~probate~~ FAMILY  
14 DIVISION OF THE CIRCUIT court shall transmit a copy of the  
15 child's examination or test results to the person related to the  
16 child or the director of the agency, institution, or facility. A  
17 person or agency that discloses information in compliance with  
18 this subsection or subsection (6) is not civilly or criminally  
19 liable for making the disclosure. A person or agency that  
20 receives test results or other medical information pertaining to  
21 HIV infection or acquired immunodeficiency syndrome under this  
22 subsection or subsection (6) is subject to section 5131 and shall  
23 not disclose the test results or other medical information except  
24 as specifically permitted under that section.

25 (8) If an individual receives counseling or is examined or  
26 tested under this section and is found to be infected with a  
27 venereal disease, ~~or~~ hepatitis B, OR HEPATITIS C or to be HIV

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1 infected, the individual shall be referred by the agency  
2 providing the counseling or testing for appropriate medical  
3 care. The department, the local health department, or any other  
4 agency providing counseling or testing under this section is not  
5 financially responsible for medical care received by an individ-  
6 ual as a result of a referral made under this subsection.

7 (9) The requirements for the distribution of information  
8 concerning venereal disease, counseling concerning venereal dis-  
9 ease, and examining or testing for venereal disease under  
10 subsections (2), (3), and (4) do not apply to an individual  
11 charged with or convicted of violating section 7404 by intrave-  
12 nously using a controlled substance or violating a local ordi-  
13 nance prohibiting the intravenous use of a controlled substance.

14 (10) As used in this section:

15 (a) "Sexual contact" includes the intentional touching of  
16 the victim's or actor's intimate parts or the intentional touch-  
17 ing of the clothing covering the immediate area of the victim's  
18 or actor's intimate parts, if that intentional touching can rea-  
19 sonably be construed as being for the purpose of sexual arousal  
20 or gratification.

21 (b) "Sexual penetration" means sexual intercourse, cunnilin-  
22 gus, fellatio, anal intercourse, or any other intrusion, however  
23 slight, of any part of a person's body or of any object into the  
24 genital or anal openings of another person's body, but emission  
25 of semen is not required.

26 (c) "Victim" includes, but is not limited to, a person  
27 subjected to criminal sexual conduct in violation of section

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1 520b, 520c, 520d, 520e, or 520g of the Michigan penal code, ~~Act~~  
2 ~~No. 328 of the Public Acts of 1931, being sections 750.520b,~~  
3 ~~750.520c, 750.520d, 750.520e, and 750.520g of the Michigan~~  
4 ~~Compiled Laws~~ 1931 PA 328, MCL 750.520B, 750.520C, 750.520D,  
5 750.520E, AND 750.520G.

6       Sec. 20191. (1) If a police officer, fire fighter, individ-  
7 ual licensed under section 20950 or 20952, or another individual  
8 assists an emergency patient who is subsequently transported to a  
9 health facility or transports an emergency patient to a health  
10 facility, and if the emergency patient, as part of the treatment  
11 rendered by the health facility or pursuant to a request made  
12 under subsection (2), is tested for the presence in the emergency  
13 patient of an infectious agent and the test results are positive,  
14 or is tested pursuant to a request made under subsection (2) for  
15 the presence in the emergency patient of the infectious agent of  
16 HIV, ~~or~~ HBV, OR HCV OR ALL 3 INFECTIOUS AGENTS and the test  
17 results are positive or negative, the health facility shall do  
18 all of the following:

19       (a) Subject to subsection (4) and subdivision (b), if the  
20 test results are positive for an infectious agent and the indi-  
21 vidual meets 1 of the following requirements, notify the individ-  
22 ual on a form provided by the department that he or she may have  
23 been exposed to an infectious agent and, if the test results of a  
24 test conducted pursuant to subsection (2) are negative for the  
25 infectious agent of HIV, ~~or~~ HBV, OR HCV OR FOR ALL 3 INFECTIOUS  
26 AGENTS, notify the individual of that fact:

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

3       (ii) The individual demonstrates in writing to the health  
4 facility that he or she was exposed to the blood, body fluids, or  
5 airborne agents of the emergency patient or participated in pro-  
6 viding assistance to the emergency patient or transportation of  
7 the emergency patient to the health facility. An individual who  
8 makes a request under subsection (2) is exempt from the require-  
9 ments of this subparagraph.

10       (b) Subject to subsection (4), if the test results indicate  
11 that the emergency patient is HIV infected, the health facility  
12 shall not reveal that the infectious agent is HIV unless the  
13 health facility has received a written request for notification  
14 from an individual described in subdivision (a)(i) or (ii). This  
15 subdivision does not apply if the test results indicate that the  
16 emergency patient is not HIV infected.

17       (c) Subject to subsection (4), on a form provided by the  
18 department, notify the individual described in subdivision (a),  
19 at a minimum, of the appropriate infection control precautions to  
20 be taken and the approximate date of the potential exposure. If  
21 the emergency patient is tested pursuant to a request made under  
22 subsection (2) for the presence in the emergency patient of the  
23 infectious agent of HIV, ~~or~~ HBV, OR HCV or ~~both~~ ALL 3 INFEC-  
24 TIOUS AGENTS, and if the test results are positive or negative,  
25 the health facility also shall notify the individual described in  
26 subdivision (a) on the form provided by the department that he or  
27 she should be tested for HIV infection, ~~or~~ HBV infection, OR

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1 HCV INFECTION or ~~both~~ FOR ALL 3 INFECTIONS, and counseled  
2 regarding ~~both~~ ALL 3 infectious agents.

3 (2) A police officer, fire fighter, individual licensed  
4 under section 20950 or 20952, or other individual who assists an  
5 emergency patient who is subsequently transported to a health  
6 facility or who transports an emergency patient to a health  
7 facility and who sustains a percutaneous, mucous membrane, or  
8 open wound exposure to the blood or body fluids of the emergency  
9 patient may request that the emergency patient be tested for HIV  
10 infection, ~~or~~ HBV infection, OR HCV INFECTION or ~~both~~ FOR ALL  
11 3 INFECTIONS, pursuant to this subsection. The police officer,  
12 fire fighter, individual licensed under section 20950 or 20952,  
13 or other individual shall make a request to a health facility  
14 under this subsection in writing on a form provided by the  
15 department and before the emergency patient is discharged from  
16 the health facility. The request form shall be dated and shall  
17 contain at a minimum the name and address of the individual  
18 making the request and a description of the individual's exposure  
19 to the emergency patient's blood or other body fluids. The  
20 request form shall contain a space for the information required  
21 under subsection (3) and a statement that the requester is  
22 subject to the confidentiality requirements of subsection (5) and  
23 section 5131. The request form shall not contain information  
24 that would identify the emergency patient by name. A health  
25 facility that receives a request under this subsection shall  
26 accept as fact the requester's description of his or her exposure  
27 to the emergency patient's blood or other body fluids, unless the



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1 health facility has reasonable cause to believe otherwise. The  
2 health facility shall make a determination as to whether or not  
3 the exposure described in the request was a percutaneous, mucous  
4 membrane, or open wound exposure pursuant to R 325.70001 to  
5 R 325.70018 of the Michigan administrative code. If the health  
6 facility determines that the exposure described in the request  
7 was a percutaneous, mucous membrane, or open wound exposure, the  
8 health facility shall test the emergency patient for HIV  
9 infection, ~~or~~ HBV infection, OR HCV INFECTION or ~~both~~ FOR ALL  
10 3 INFECTIONS, as indicated in the request. A health facility  
11 that performs ~~a test~~ 1 OR MORE TESTS under this subsection may  
12 charge the individual requesting the test OR TESTS for the rea-  
13 sonable and customary charges of ~~the~~ EACH test. The individual  
14 requesting the test OR TESTS is responsible for the payment of  
15 the charges if the charges are not payable by the individual's  
16 employer, pursuant to an agreement between the individual and the  
17 employer, or by the individual's health care payment or benefits  
18 plan. A health facility is not required to provide HIV counsel-  
19 ing pursuant to section 5133(1) to an individual who requests  
20 that an emergency patient be tested for HIV under this subsec-  
21 tion, unless the health facility tests the requesting individual  
22 for HIV.

23 (3) A health facility shall comply with this subsection if  
24 the health facility receives a request under subsection (2) and  
25 determines either that there is reasonable cause to disbelieve  
26 the requester's description of his or her exposure or that the  
27 exposure was not a percutaneous, mucous membrane, or open wound

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1 exposure and as a result of the determination the health facility  
2 is not required to test the emergency patient for HIV infection,  
3 ~~or~~ HBV infection, OR HCV INFECTION or ~~both~~ FOR ALL 3  
4 INFECTIONS. A health facility shall also comply with this sub-  
5 section if the health facility receives a request under  
6 subsection (2) and determines that the exposure was a percutane-  
7 ous, mucous membrane, or open wound exposure, but is unable to  
8 test the emergency patient for HIV infection, ~~or~~ HBV infection,  
9 OR HCV INFECTION or ~~both~~ FOR ALL 3 INFECTIONS. The health  
10 facility shall state in writing on the request form the reasons  
11 for disbelieving the requester's description of his or her expo-  
12 sure, the health facility's exposure determination, or the  
13 inability to test the emergency patient, as applicable. The  
14 health facility shall transmit a copy of the completed request  
15 form to the requesting individual within 2 days after the date  
16 the determination is made that the health facility has reasonable  
17 cause to disbelieve the requester's description of his or her  
18 exposure or that the exposure was not a percutaneous, mucous mem-  
19 brane, or open wound exposure or within 2 days after the date the  
20 health facility determines that it is unable to test the emer-  
21 gency patient for HIV infection, ~~or~~ HBV infection, OR HCV  
22 INFECTION or ~~both~~ FOR ALL 3 INFECTIONS.

23 (4) The notification required under subsection (1) shall  
24 occur within 2 days after the test results are obtained by the  
25 health facility or after receipt of a written request under  
26 subsection (1)(b). The notification shall be transmitted to the  
27 potentially exposed individual or, upon request of the

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1 individual, to the individual's primary care physician or other  
2 health professional designated by the individual, as follows:

3       (a) If the potentially exposed individual provides his or  
4 her name and address or the name and address of the individual's  
5 primary care physician or other health professional designated by  
6 the individual to the health facility or if the health facility  
7 has a procedure that allows the health facility in the ordinary  
8 course of its business to determine the individual's name and  
9 address or the name and address of the individual's primary care  
10 physician or other health professional designated by the individ-  
11 ual, the health facility shall notify the individual or the  
12 individual's primary care physician or other health professional  
13 designated by the individual directly at that address.

14       (b) If the potentially exposed individual is a police offi-  
15 cer, fire fighter, or individual licensed under section 20950 or  
16 20952, and if the health facility does not have the name of the  
17 potentially exposed individual or the individual's primary care  
18 physician or other health professional designated by the individ-  
19 ual, the health facility shall notify the appropriate police  
20 department, fire department, or life support agency that employs  
21 or dispatches the individual. If the health facility is unable  
22 to determine the employer of an individual described in this sub-  
23 division, the health facility shall notify the medical control  
24 authority or chief elected official of the governmental unit that  
25 has jurisdiction over the transporting vehicle.

26       (c) A medical control authority or chief elected official  
27 described in subdivision (b) shall notify the potentially exposed

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1 individual or the individual's primary care physician or other  
2 health professional designated by the individual or, if unable to  
3 notify the potentially exposed individual or the individual's  
4 primary care physician or other health professional designated by  
5 the individual, shall document in writing the notification  
6 efforts and reasons for being unable to make the notification.

7       (5) The notice required under subsection (1) shall not con-  
8 tain information that would identify the emergency patient who  
9 tested positive for an infectious agent or who tested positive or  
10 negative for the presence in the emergency patient of the infec-  
11 tious agent of HIV, ~~or~~ HBV, OR HCV OR FOR ALL 3 INFECTIOUS  
12 AGENTS. The information contained in the notice is confidential  
13 and is subject to this section, the rules promulgated under  
14 section 5111(2), and section 5131. A person who receives confi-  
15 dential information under this section shall disclose the infor-  
16 mation to others only to the extent consistent with the autho-  
17 rized purpose for which the information was obtained.

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

21       (7) Except as otherwise provided in this subsection, a  
22 person who discloses information regarding an infectious agent in  
23 violation of subsection (5) is guilty of a misdemeanor. This  
24 subsection does not apply to the disclosure of information  
25 regarding a serious communicable disease or infection, if the  
26 disclosure is subject to rules promulgated under section 5111(2)  
27 or to section 5131.

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

5 (9) As used in this section:

6 (a) "Emergency patient" means an individual who is trans-  
7 ported to an organized emergency department located in and oper-  
8 ated by a hospital licensed under this article or a facility  
9 other than a hospital that is routinely available for the general  
10 care of medical patients.

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

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

14 (D) "HCV" MEANS HEPATITIS C VIRUS.

15 (E) "HCV INFECTED" OR "HCV INFECTION" MEANS THE STATUS OF AN  
16 INDIVIDUAL WHO HAS TESTED POSITIVE FOR HCV.

17 (F) ~~(d)~~ "Health facility" means a health facility or  
18 agency as defined in section 20106.

19 (G) ~~(e)~~ "HIV" means human immunodeficiency virus.

20 (H) ~~(f)~~ "HIV infected" means that term as defined in  
21 section 5101.

22 (I) ~~(g)~~ "Infectious agent" means that term as defined in  
23 R 325.9031 of the Michigan administrative code.

24 (J) ~~(h)~~ "Life support agency" means that term as defined  
25 in section 20906.

26 (K) ~~(i)~~ "Serious communicable disease or infection" means  
27 that term as defined in section 5101.