

SENATE BILL No. 1129

March 30, 2004, Introduced by Senators BERNERO, GEORGE, THOMAS, SCHAUER, JACOBS and HAMMERSTROM and referred to the Committee on Health Policy.

A bill to amend 1978 PA 368, entitled
"Public health code,"
by amending sections 5114 and 5114a (MCL 333.5114 and 333.5114a),
as added by 1988 PA 489.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 5114. (1) Except as otherwise provided in this
2 section, ~~and except for a licensed clinical laboratory,~~ a
3 person or governmental entity that obtains from a test subject a
4 test result that indicates that the test subject is HIV infected
5 or from a test subject who has already been diagnosed as HIV
6 infected a test result ordered for the management and
7 surveillance of the infection or the detection of the HIV
8 infection or the acquired immunodeficiency syndrome shall, within
9 7 days after obtaining the test result, report to the appropriate
10 local health department or, if requested by the local health

1 **department, to the** department on a form provided by the
2 **department or through electronic methods approved by the**
3 **department** all of the following information, **if available:**

4 (a) The name and address of the person or governmental entity
5 that submits the report.

6 (b) **The name, address, and telephone number of the health**
7 **care provider who diagnosed the test subject or who ordered the**
8 **test.**

9 (c) ~~—(b)—~~ The ~~—age—~~ **name, date of birth, race, sex, —and**
10 ~~county of residence—~~ **address, and telephone number** of the test
11 subject.

12 (d) ~~—(e)—~~ The date on which the ~~—test was performed—~~ **specimen**
13 **was collected for testing.**

14 (e) **The type of test performed.**

15 (f) ~~—(d)—~~ The test result.

16 (g) ~~—(e)—~~ If known, whether or not the test subject has
17 tested positive for the presence of HIV or an antibody to HIV on
18 a previous occasion.

19 (h) ~~—(f)—~~ The probable method of transmission.

20 (i) ~~—(g)—~~ The purpose of the test.

21 (j) ~~—(h)—~~ Any other medical or epidemiological information
22 considered necessary by the department for the surveillance,
23 control, and prevention of HIV infections. Information added by
24 the department under this subdivision shall be promulgated as
25 rules.

26 ~~—(2) Except as otherwise provided in this section and except~~
27 ~~for a licensed clinical laboratory, a person or governmental~~

~~1 entity that obtains from a test subject a test result that~~
~~2 indicates that the test subject is HIV infected shall, within 7~~
~~3 days after obtaining the test result, report to the appropriate~~
~~4 local health department, on a form provided by the department,~~
~~5 all of the information required under subsection (1), but~~
~~6 including the name, address, and telephone number of the test~~
~~7 subject.~~

8 (2) ~~—(3)—~~ An individual who undergoes a test for HIV or an
9 antibody to HIV in a physician's private practice office or the
10 office of a physician employed by or under contract to a health
11 maintenance organization may request that the report made by the
12 physician under this section not include the name, address, and
13 telephone number of the test subject. Except as otherwise
14 provided in section 5114a, if such a request is made under this
15 subsection, the physician shall comply with the request **and**
16 **submit the specimen to the laboratory without the name, address,**
17 **or telephone number of the test subject.**

18 (3) ~~—(4)—~~ A local health department shall not maintain a
19 roster of names obtained under this section, but shall maintain
20 individual case files that are encoded to protect the identities
21 of the individual test subjects.

22 Sec. 5114a. (1) A person or governmental entity that
23 administers a test for HIV or an antibody to HIV to an individual
24 shall refer the individual to the appropriate local health
25 department for assistance with partner notification if both of
26 the following conditions are met:

27 (a) The test results indicate that the individual is HIV

1 infected.

2 (b) The person or governmental entity that administered the
3 test determines that the individual needs assistance with partner
4 notification.

5 (2) A person or governmental entity that refers an individual
6 to a local health department under subsection (1) shall provide
7 the local health department with information determined necessary
8 by the local health department to carry out partner
9 notification. Information required under this subsection may
10 include, but is not limited to, the name, address, and telephone
11 number of the individual test subject.

12 (3) A local health department to which an individual is
13 referred under subsection (1) shall inform the individual that he
14 or she has a legal obligation to inform each of his or her sexual
15 partners of the individual's HIV infection before engaging in
16 sexual relations with that sexual partner, and that the
17 individual may be subject to criminal sanctions for failure to so
18 inform a sexual partner.

19 (4) A partner notification program operated by a local health
20 department shall include notification of individuals who are
21 sexual or hypodermic needle-sharing partners of the individual
22 tested under subsection (1). Partner notification shall be
23 confidential and conducted in the form of a direct, one-to-one
24 conversation between the employee of the local health department
25 and the partner of the test subject.

26 (5) If a local health department receives a report under
27 section ~~5114(2)~~ **5114(1)** that indicates that a resident of this

1 state or an individual located in this state is HIV infected, the
2 local health department shall make it a priority to do all of the
3 following:

4 (a) Attempt to interview the individual and offer to contact
5 the individual's sexual partners and, if applicable, hypodermic
6 needle-sharing or drug-sharing partners. If the subject of the
7 report is determined to have been infected with HIV in utero, the
8 local health department shall attempt to interview the
9 individual's parent or legal guardian, or both. The interview
10 conducted under this subdivision shall be voluntary on the part
11 of the individual being interviewed. The interview or attempted
12 interview required under this subdivision shall be performed by a
13 local health department within 14 days after receipt of a report
14 under section ~~5114(2)~~ **5114(1)**.

15 (b) Within 35 days after the interview conducted pursuant to
16 subdivision (a), confidentially, privately, and in a discreet
17 manner contact each individual identified as a sexual or
18 hypodermic needle-sharing or drug-sharing partner regarding the
19 individual's possible exposure to HIV. The local health
20 department shall not reveal to an individual identified as a
21 partner the identity of the individual who has tested positive
22 for HIV or an antibody to HIV except if authorized to do so by
23 the individual who named the contact, and if needed to protect
24 others from exposure to HIV or from transmitting HIV. The local
25 health department shall provide each individual interviewed under
26 subdivision (a) and each individual contacted under this
27 subdivision with all of the following information:

1 (i) Available medical tests for HIV, an antibody to HIV, and
2 any other indicator of HIV infection.

3 (ii) Steps to take in order to avoid transmission of HIV.

4 (iii) Other information considered appropriate by the
5 department.

6 (6) The reports, records, and data of a local health
7 department pertaining to information acquired under this section
8 shall be retained by the local health department for not more
9 than 90 days after the date of receipt or for a period
10 established by rule of the department.

11 (7) Information acquired by the department or a local health
12 department under this section or section 5114 is exempt from
13 disclosure under the freedom of information act, ~~Act No. 442 of~~
14 ~~the Public Acts of 1976, being sections 15.231 to 15.246 of the~~
15 ~~Michigan Compiled Laws 1976 PA 442, MCL 15.231 to 15.246.~~

16 (8) The department in consultation with local health
17 departments shall submit a biennial report to the standing
18 committees in the senate and house of representatives responsible
19 for legislation pertaining to public health on the effect of this
20 section on the department's efforts to monitor and control HIV
21 infection **and acquired immunodeficiency syndrome**. The report
22 shall include, but not be limited to, statistics on the total
23 number of index cases reported, the total number of index cases
24 reported with information identifying the test subject or a
25 partner of the test subject, and the total number of partners
26 actually contacted under this section, and an assessment of the
27 effectiveness of the program, and recommendations to improve the

1 effectiveness of the program, if any. The statistics included in
2 the report shall be broken down by local health department
3 jurisdiction.