

HOUSE SUBSTITUTE FOR  
SENATE BILL NO. 1129

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 to evaluate immune system status,  
7 to quantify HIV levels, or to diagnose acquired immunodeficiency  
8 syndrome shall, within 7 days after obtaining ~~the test result~~ a  
9 diagnostic test result or, for a nondiagnostic test result,  
10 within a time frame as determined by the department, report to

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

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

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

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

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

15 (e) The type of test performed.

16 (f) ~~(d)~~ The test result.

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

20 (h) ~~(f)~~ The probable method of transmission.

21 (i) ~~(g)~~ The purpose of the test.

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

27 ~~(2) Except as otherwise provided in this section and except~~

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

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

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

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

1 the following conditions are met:

2 (a) The test results indicate that the individual is HIV  
3 infected.

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

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

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

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

1 (5) If a local health department receives a report under  
2 section ~~5114(2)~~ **5114(1)** that indicates that a resident of this  
3 state or an individual located in this state is HIV infected, the  
4 local health department shall make it a priority to do all of the  
5 following:

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

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

1 subdivision (a) and each individual contacted under this  
2 subdivision with all of the following information:

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

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

6 (iii) Other information considered appropriate by the  
7 department.

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

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

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

1 actually contacted under this section, and an assessment of the  
2 effectiveness of the program, and recommendations to improve the  
3 effectiveness of the program, if any. The statistics included in  
4 the report shall be broken down by local health department  
5 jurisdiction.

6 Enacting section 1. This amendatory act takes effect April  
7 1, 2005.