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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2009

A N A C T

RELATING TO HEALTH AND SAFETY

Introduced By: Representatives Naughton, and McNamara

Date Introduced: February 11, 2009

Referred To: House Health, Education & Welfare

It is enacted by the General Assembly as follows:

1 SECTION 1. Title 23 of the General Laws entitled "HEALTH AND SAFETY" is hereby
2 amended by adding thereto the following chapter:

3 CHAPTER 6.3

4 PREVENTION AND SUPPRESSION OF CONTAGIOUS DISEASES - HIV/AIDS

5 **23-6.3-1. Purpose.** -- The purpose of this chapter is to reduce vulnerability to HIV/AIDS
6 transmission, protect persons who are infected with HIV from discrimination, ensure informed
7 consent for testing, and to provide consistent terms and standards within this title and as
8 applicable to chapters 11-34, 11-37, 21-28 and 40.1-24.

9 **23-6.3-2. Definitions.** -- As used in this chapter the following words shall have the
10 following meanings:

11 (1) "Agent" means a person empowered by the patient to assert or waive the
12 confidentiality, or to disclose or consent to the disclosure of confidential information, as
13 established by chapter 5-37.3 of the general laws of Rhode Island, as amended, entitled
14 "Confidentiality of Health Care Communications and Information Act."

15 (2) "AIDS" means the medical condition known as acquired immune deficiency
16 syndrome, caused by infection of an individual by the human immunodeficiency virus (HIV).

17 (3) "Anonymous HIV testing" means an HIV test that utilizes a laboratory generated code
18 based system, which does not require an individual's name or other identifying information that
19 may reveal one's identity, including information related to the individual's health insurance

1 policy, to be associated with the test.

2 (4) "Antibody" means a protein produced by the body in response to specific foreign
3 substances such as bacteria or viruses.

4 (5) "Community-based organization" means an entity that has written authorization from
5 the department for HIV counseling, testing and referral services (HIV CTRS).

6 (6) "Confidential HIV testing" means an HIV test that requires the individual's name and
7 other identifying information including information related to the individual's health insurance
8 policy, as appropriate.

9 (7) "Consent" means an explicit exchange of information between a person and a health
10 care provider or qualified professional HIV test counselor through which an informed individual
11 can choose whether to undergo HIV testing or decline to do so. Elements of consent shall include
12 providing each individual with verbal or written information regarding an explanation of HIV
13 infection, a description of interventions that can reduce HIV transmission, the meanings of
14 positive and negative test results, the voluntary nature of the HIV testing, an opportunity to ask
15 questions and to decline testing.

16 (8) "Controlled substance" means a drug, substance, or immediate precursor in schedules
17 I-V listed in the provisions of chapter 21-28 entitled, "Uniform Controlled Substances Act".

18 (9) "Department" means the Rhode Island department of health.

19 (10) "Diagnosis of AIDS" means the most current surveillance case definition for AIDS
20 published in the Centers for Disease Control & Prevention (CDC).

21 (11) "Diagnosis of HIV" means the most current surveillance case definition for HIV
22 infection published in the CDC's (MMWR).

23 (12) "Director" means the director of the Rhode Island department of health.

24 (13) "ELISA result" means enzyme-linked immunosorbent assay or EIA (enzyme
25 immunoassay) which is a serologic technique used in immunology to detect the presence of either
26 antibody or antigen.

27 (14) "Health benefits" include accident and sickness, including disability or health
28 insurance, health benefit plans and/or policies, hospital, health, or medical service plans, or any
29 health maintenance organization plan pursuant to title 27 or otherwise.

30 (15) "Health care facility" means those facilities licensed by the department in
31 accordance with the provisions of chapter 23-17.

32 (16) "Health care provider", as used herein, means a licensed physician, physician
33 assistant, certified nurse practitioner or midwife.

34 (17) "Health care settings" means venues offering clinical STD services including, but

1 not limited to, hospitals, urgent care clinics, STD clinics and other substance abuse treatment
2 facilities, mental health treatment facilities, community health centers, primary care and OB/GYN
3 physician offices, and family planning providers.

4 (18) "HIV" means the human immunodeficiency virus, the pathogenic organism
5 responsible for HIV infection and/or the acquired immunodeficiency syndrome (AIDS) in
6 humans.

7 (19) "HIV CD4 T-lymphocyte test result" means the results of any currently medic ally
8 accepted and/or FDA approved test used to count CD4 T-lymphatic cells in the blood of an HIV-
9 infected person.

10 (20) "HIV counseling" means an interactive process of communication between a person
11 and a health care provider or qualified professional HIV test counselor during which there is an
12 assessment of the person's risks for HIV infection and the provision of counseling to assist the
13 person with behavior changes that can reduce risks for acquiring HIV infection.

14 (21) "HIV screening" means the conduct of HIV testing among those who do not show
15 signs or symptoms of an HIV infection.

16 (22) "HIV test" means any currently medically accepted and/or FDA approved test for
17 determining HIV infection in humans.

18 (23) "Occupational health representative" means a person, within a health care facility,
19 trained to respond to occupational, particularly blood borne, exposures.

20 (24) "Opts out" means that a person who has been notified that a voluntary HIV test will
21 be performed, has elected to decline or defer testing. Consent to HIV testing is inferred unless the
22 individual declines testing.

23 (25) "Perinatal case report for HIV" means the information that is provided to the
24 department related to a child aged less than eighteen (18) months born to an HIV-infected mother
25 and the child does not meet the criteria for HIV infection or the criteria for "not infected" with
26 HIV as defined in the most current surveillance case definition for HIV infection published by the
27 CDC.

28 (26) "Person" means any individual, trust or estate, partnership, corporation (including
29 associations, joint stock companies), limited liability companies, state, or political subdivision or
30 instrumentality of a state.

31 (27) "Persons at high risk for HIV infection" means persons defined as being high risk in
32 the CDC's most current recommendations for HIV testing of adults, adolescents and pregnant
33 women in health care settings or through authority and responsibilities conferred on the director
34 by law in protecting the public's health.

1 (28) "Polymerase chain reaction (PCR) test" means a common laboratory method of
2 creating copies of specific fragments of DNA or RNA.

3 (29) "Qualified professional HIV test counselor" means: (i) A physician, physician
4 assistant, certified nurse practitioner, midwife, or nurse licensed to practice in accordance with
5 applicable state law; (ii) A medical student who is actively matriculating in a medical degree
6 program and who performs duties assigned to them by a physician; or (iii) A person who has
7 completed an HIV counseling training program, in accordance with regulations hereunder
8 promulgated.

9 (30) "Sexually transmitted diseases (STD's)" means those diseases included in section 23-
10 11-1, as amended, entitled "Sexually Transmitted Diseases", and any other sexually transmitted
11 disease that may be required to be reported by the department.

12 **23-6.3-3. HIV screening and testing of adults, adolescents, and pregnant women. --**

13 (a) This section shall pertain to patients in all health care settings and HIV CTRS sites.

14 (b) HIV screening and testing shall be based on the most current recommendations for
15 HIV counseling, testing and referral of adults, adolescents and pregnant women issued by the
16 CDC. Provided, however, those guidelines shall be interpreted by the department so as to best
17 serve the individuals and patients receiving HIV testing, and shall in no event be interpreted or
18 implemented in a manner inconsistent with the minimum informed consent standards and other
19 provisions and protections of state law and regulations.

20 (c) All individuals who desire anonymous HIV testing shall be referred to an HIV CTRS
21 site funded by the department that provides anonymous HIV testing.

22 (d) All health care settings and HIV CTRS sites shall develop protocols that include no
23 less than the following: assessment for individuals at high risk for HIV infection; frequency of
24 HIV testing; communication of HIV test results; and post-test linkages to needed care and support
25 services.

26 (e) Those adults, adolescents and pregnant women who test positive for HIV infection
27 shall be given priority for outpatient substance abuse treatment programs that are sponsored or
28 supported by the appropriate state agency responsible for these services, and those who test
29 negative for HIV infection shall be referred to the appropriate state agency responsible for these
30 services for earliest possible evaluation and treatment.

31 (f) A positive test result must be given in person. Persons testing positive for HIV must
32 also be provided with linkages and referrals to HIV-related counseling, health care and support.

33 (g) All persons tested under this section shall be informed of the results of the HIV test.

34 (h) Consent and providing information for HIV testing:

1 (1) Except as provided in section 23-6.3-4, HIV screening shall be voluntary, free from
2 coercion, incorporated into routine medical testing, and undertaken only with the individual's
3 knowledge and understanding that HIV testing will be performed.

4 (2) No person shall order the performance of an HIV test without first: (i) Providing the
5 information and opportunity for discussion or counseling set forth in this section; (ii) Informing
6 the patient that he or she has a right to decline testing; and (iii) Obtaining the oral consent of the
7 patient to be tested or of a person authorized to consent to health care for such individual. Said
8 consent and exchange of HIV information shall be documented in the patient's medical record.

9 (3) A physician or health care provider may tailor HIV counseling to best meet the needs
10 of the individual to be tested. Decisions concerning patient-specific tailoring and the extent of
11 pre-test counseling shall be made on a case-by-case basis.

12 (4) In no event shall a patient be tested for HIV pursuant to this section without first
13 being provided with verbal or written information that includes the following:

14 (1) An explanation of HIV infection;

15 (2) A description of interventions that can reduce HIV transmission;

16 (3) The meanings of positive and negative test results;

17 (4) The possibility that a recent infection may not be detected; and

18 (5) An opportunity to ask questions and to decline testing.

19 (i) For pregnant women:

20 (1) HIV screening shall be incorporated as part of routine prenatal testing for all pregnant
21 women as early and often as appropriate during each pregnancy after the patient has been notified
22 that voluntary testing, in accordance with the consent and information requirements of subsection
23 (h), will be performed unless the patient opts out.

24 (2) Any woman with an undocumented HIV test status in her record at the time of labor
25 and/or delivery shall be screened with an HIV test in accordance with the consent and
26 information requirements of subsection (h), unless she opts out.

27 (3) A newborn shall be tested as soon as possible at delivery without the mother's
28 consent if the mother's HIV status is not documented, provided that:

29 (i) Reasonable efforts have been made to secure voluntary consent from the mother to test
30 the newborn; and

31 (ii) A mother is informed that HIV antibodies in the newborn indicate that the mother is
32 infected with HIV.

33 (j) The department shall provide guidance and access to written information to be used
34 for the purposes of this section. This information shall notify the patients about risk-reduction

1 strategies; the merits of repeat HIV and STD testing; and the availability of counseling and HIV
2 prevention services. Informational materials shall be easily understandable and made available in
3 Spanish and in other languages as appropriate to assure that the information presented is in a
4 format that the individual can understand. Interpreters and bilingual staff shall demonstrate
5 competency in providing language assistance to patients with limited English proficiency. Family
6 or friends shall not be used as language interpreters.

7 (k) A distinction shall be made between anonymous and confidential HIV testing. To
8 protect the anonymity of patients tested anonymously, written consent shall not be offered as an
9 option to verbal informed consent in anonymous testing.

10 (l) In accordance with chapter 23-8, individuals under eighteen (18) years of age may
11 give legal consent for testing, examination, and/or treatment for any reportable communicable
12 disease, including HIV.

13 (m) The department shall initiate medical provider training sessions, develop
14 standardized materials to support more universal testing, utilize community input to create
15 implementation plans, and evaluate the impact of this section.

16 (n) No physician or health care provider shall discriminate against a patient because he or
17 she is HIV positive or has declined to take an HIV test.

18 **23-6.3-4. Exceptions to consent requirements.** – (a) A health care provider may test for
19 the presence of HIV without obtaining consent from the individual to be tested under the
20 following conditions:

21 (1) When the individual to be tested is under one year of age;

22 (2) When a child between one and thirteen (13) years of age appears to be symptomatic
23 for HIV;

24 (3) When the individual to be tested is a minor under the care and authority of the
25 department of children, youth and families, and the director of that department certifies that an
26 HIV test is necessary to secure health or human services for that individual;

27 (4) In a licensed health care facility or health care setting, in the event that an
28 occupational health representative or physician, registered nurse practitioner, physician assistant,
29 or nurse-midwife, not directly involved in the exposure, determines that an employee or
30 emergency service worker, other than one in a supervisory position to the person making the
31 determination, had a significant exposure to the blood and/or body fluids of a patient and the
32 patient or the patient's guardian refuses to grant consent for an HIV test to determine whether the
33 patient has HIV, then, if a sample of the patient's blood is available, that blood shall be tested for
34 HIV.

1 (i) If a sample of the patient’s blood is not otherwise available and the patient refuses to
2 grant consent to draw blood, the employee or emergency service worker may petition the superior
3 court for a court order mandating that the test be performed.

4 (ii) Before a patient or a sample of the patient’s blood is required to undergo an HIV test,
5 the employee or emergency service worker must submit to a baseline HIV test within seventy-two
6 (72) hours of the exposure.

7 (iii) No person who determines that an employee or emergency service worker has
8 sustained a significant exposure and authorizes the HIV testing of a patient, nor any person or
9 health care facility who acts in good faith and recommends the test be performed, shall have any
10 liability as a result of their actions carried out under this chapter, unless those persons are proven
11 to have acted in bad faith.

12 (iv) For the purposes of this section, “emergency service worker” means a worker
13 responding on behalf of a licensed ambulance/rescue service, or a fire department or a law
14 enforcement agency, who, in the course of his/her professional duties, has been exposed to bodily
15 fluids in circumstances that present a significant risk of transmission of HIV, and has completed a
16 pre-hospital exposure form in accordance with section 23-4.1-19.

17 (5) In an emergency, where due to a grave medical or psychiatric condition, and it is
18 impossible to obtain consent from the patient or, if applicable under state law, the patient’s
19 parent, guardian, or agent.

20 (6) As permitted under section 23-1-38 entitled “HIV Antibody Testing-Sperm Collection
21 or Donation”.

22 (7) Any individual convicted of a violation of any provisions of Chapter 11-34 entitled
23 “Prostitution and Lewdness”, shall be required to be tested for HIV unless already documented
24 HIV positive. All individuals tested under this section shall be informed of their test results. All
25 individuals tested under this section who are determined to be injecting and/or intra-nasal drug
26 users shall be referred to appropriate substance abuse treatment as outlined in subsection 23-6.3-
27 3(e).

28 (8) Any individual convicted of possession of any controlled substance as defined in
29 Chapter 21-28 entitled “Uniform Controlled Substances Act”, that has been administered with a
30 hypodermic instrument, retractable hypodermic syringe, needle, intra-nasally, or any similar
31 instrument adapted for the administration of drugs shall be required to be tested for HIV unless
32 already documented HIV positive.

33 (9) All individuals tested under this section shall be informed of their test results.

34 (10) In accordance with the provisions of Chapter 11-37, entitled, "Sexual Assault", any

1 individual who has admitted to or been convicted of or adjudicated wayward or delinquent by
2 reason of having committed any sexual offense involving penetration whether or not a sentence or
3 fine is imposed or probation granted, shall be ordered by the court upon petition of the victim,
4 immediate family members of the victim or legal guardian of the victim, to submit to a blood test
5 for the presence of a sexually transmitted disease including, but not limited to, HIV. All
6 individuals tested under this section shall be informed of their test results.

7 (11) In accordance with the provisions or section 42-56-37, entitled "HIV Testing", every
8 individual who is committed to the adult correctional institutions to any criminal offense, after
9 conviction, is required to be tested for HIV.

10 (b) It is unlawful for any person to disclose to a third party the results of an individual's
11 HIV test without the prior written consent of that individual, except in accordance with section
12 23-6.3-7.

13 **23-6.3-5. Reasonable efforts to secure consent. --** No involuntary testing for HIV shall
14 take place under any of the exceptions set forth in section 23-6.3-4, unless reasonable efforts have
15 been made to: (1) Secure voluntary consent from the individual to be tested, or in the case of a
16 minor patient, from the legal parent or guardian of the minor patient; and (2) Provide verbal or
17 written information as specified in subsection 23-6.3-3(h).

18 **23-6.3-6. Due process – Right to bring suit. –** Nothing in section 23-6.3-1 to 23-6.3-16
19 shall be construed to limit or deprive any person of his or her right to due process of law, or to bar
20 an action of relief and/or damages before a court of competent jurisdiction.

21 **23-6.3-7. Confidentiality. --** (a) It is unlawful for any person to disclose to a third-party
22 the results of an individual's HIV test without the prior written consent of that individual, except
23 for:

24 (1) A licensed laboratory or other health care facility that performs HIV tests shall report
25 test results to the health care provider who requested the test and to the director.

26 (2) A health care provider shall enter HIV test results in the patient's medical record.

27 (3) Notification to the director of the department of children, youth and families, pursuant
28 to subdivision 23-6.3-4(3).

29 (4) As provided in chapter 5-37.3, section 40.1-5-26, sections 23-6.3-10 and 23-6.3-14 or
30 as otherwise permitted by law.

31 (5) By a health care provider to appropriate persons entitled to receive notification of
32 individuals with infectious or communicable diseases pursuant to sections 23-5-9 and 23-28.36-3.

33 (b) This chapter shall not be construed to interfere with any other federal or state laws or
34 regulations that provide more extensive protection than provided in this chapter for the

1 confidentiality of health care information.

2 **23-6.3-8. Protection of records.** -- (a) Providers of health care, public health officials,
3 and any other person who maintains records containing information on HIV test results of
4 individuals are responsible for maintaining full confidentiality of this data and shall take
5 appropriate steps for their protection, including:

6 (1) Keeping records secure at all times and establishing adequate confidentiality
7 safeguards for any records electronically stored;

8 (2) Establishing and enforcing reasonable rules limiting access to these records; and

9 (3) Training persons who handle records in security objectives and technique.

10 (b) The department shall evaluate reports of HIV/AIDS for completeness and potential
11 referrals for service. All case reports shall be kept in a confidential and secure setting. An
12 HIV/AIDS policy and protocol for security shall be developed and implemented by the
13 department for this purpose.

14 (c) The department shall evaluate its procedures for HIV/AIDS reporting on a
15 continuous basis for timeliness, completeness of reporting, and security of confidential
16 information.

17 (d) The department shall develop a protocol that shall be in accordance with the most
18 recent recommendations of the CDC's Guidelines for National Human Immunodeficiency Virus
19 Case Surveillance, including monitoring for Human Immunodeficiency Virus infection and
20 Acquired Immunodeficiency Syndrome, pertaining to patient records and confidentiality;
21 provided, however, that in no event shall the protocol be less protective than that required by state
22 law.

23 (e) All reports and notifications made pursuant to this section shall be confidential and
24 protected from release except under the provisions of law. Any person aggrieved by a violation of
25 this section shall have a right of action in the superior court and may recover for each violation.

26 **23-6.3-9. Penalties and remedies.** -- The penalties and remedies contained in chapter 5-
27 37.3 entitled "Confidentiality of Health Care Communications and Information" shall apply to
28 violations of sections 23-6.3-7 confidentiality and 23-6.3-8 protection of records.

29 **23-6.3-10. Notification of disclosure.** -- (a) In all cases when an individual's HIV test
30 results are disclosed to a third-party, other than a person involved in the care and treatment of the
31 individual, and except as permitted by subsections (1), (2)(i), (2)(ii), (2)(iv), or (4) of section 23-
32 6- 21 (permitted disclosures re: confidentiality), and permitted by and disclosed in accordance
33 with the Federal Health Insurance Portability and Accountability Act of 1996 (Public law 104-
34 191) enacted on August 21, 1996 and as thereafter amended, the person so disclosing shall make

1 reasonable efforts to inform that individual in advance of:

2 (1) The nature and purpose of the disclosure;

3 (2) The date of disclosure;

4 (3) The recipient of the disclosed information.

5 (b) Health care providers may inform third-parties with whom an HIV infected patient is
6 in close and continuous exposure related contact, including, but not limited to a spouse and/or
7 partner, if the nature of the contact, in the health care providers opinion, poses a clear and present
8 danger of HIV transmission to the third-party, and if the physician has reason to believe that the
9 patient, despite the health care provider's strong encouragement, has not and will not inform the
10 third-party that they may have been exposed to HIV.

11 **23-6.3-11. Discrimination prohibited.** -- No person, agency, organization, or legal entity
12 may discriminate against an individual on the basis of a positive HIV test result, or perception of
13 a positive test, in housing, education, employment, the granting of credit, public accommodation,
14 or delivery of services, nor shall an HIV test be required as a condition of employment.

15 **23-6.3-12. Administrative relief.** -- Any individual who believes that he or she has been
16 unlawfully discriminated against in housing, education, employment, the granting of credit,
17 public accommodations, or delivery of services on the basis of a positive HIV test, or perception
18 of a positive test, may bring action for administrative relief before the Rhode Island human rights
19 commission; and that commission may hear the matter and grant relief in those cases.

20 **23-6.3-13. HIV Counseling, Testing, Referral and Services Sites (HIV CTRS)** -- The
21 department shall designate and fund HIV CTRS sites, for providing both anonymous and
22 confidential HIV testing and HIV counseling and referral services.

23 Anonymous and confidential HIV testing provided by HIV CTRS sites funded by the
24 department shall screen individuals for their ability to pay for such HIV testing, using a fee
25 schedule and screening process available to the department on request. HIV CTRS sites shall not
26 deny HIV testing to any individual based on his or her inability to pay.

27 **23-6.3-14. Reporting and notification of HIV/AIDS** -- (a) Except in the case of
28 anonymous HIV testing, a diagnosis of HIV or AIDS shall be notifiable and reportable to the
29 department by name.

30 The following shall be reported to the department:

31 (1) A diagnosis of HIV, according to the most current CDC case definition of HIV.

32 (2) A diagnosis of AIDS, according to the most recent CDC case definition of AIDS.

33 (3) A positive ELISA result of any HIV test and/or other FDA approved test indicative
34 of the presence of HIV.

1 (4) Notification of a perinatal exposure to HIV shall be made to the department
2 regardless of confirmatory testing. A perinatal case report for HIV shall be indicated by two (2)
3 positive polymerase chain reaction (PCR) tests; <18 months; and/or other U.S. Food and Drug
4 Administration approved tests that indicate the presence of HIV in pediatric cases.

5 (b) The following persons shall report information required by this section to the
6 department:

7 (1) A health care provider who diagnoses or treats HIV/AIDS;

8 (2) The administrator of a health care facility as defined in Chapter 23-17 who
9 diagnoses or treats HIV/AIDS; or

10 (3) The administrator of a prison in which there is an HIV/AIDS infected individual or
11 perinatal exposure to HIV/AIDS.

12 (c) A person responsible for the administration of a clinical or hospital laboratory, blood
13 bank, mobile unit, or other facility in which a laboratory examination of any specimen derived
14 from a human body yields serological, or other evidence of HIV/AIDS, including perinatal
15 exposure to HIV/AIDS shall notify the department in a timely manner.

16 (d) All positive HIV test results shall be confirmed with a Western Blot or other FDA
17 approved confirmatory test.

18 **23-6.3-15. Laboratory analyses and reporting.** -- (a) All biological samples or
19 specimens taken for the purpose of performing laboratory analysis for the detection of antibody to
20 HIV, by or under the direction or order of any health care provider working within the scope of
21 his or her practice, shall be sent to the department of health laboratory for analysis. This provision
22 shall not apply to those HIV tests performed in a hospital laboratory or to those sites performing
23 rapid HIV testing.

24 (b) Hospitals shall forward all positive confirmatory HIV test results to the department.
25 All sites performing HIV testing must submit an annual HIV testing report to the department in
26 accordance with regulations promulgated by the department.

27 (c) The department laboratory shall conduct all confirmatory testing for HIV/AIDS with
28 the exception of written waivers issued by the department as indicated in (d) below.

29 (d) Sites performing non-venapuncture HIV testing (e.g. rapid testing), must seek a
30 waiver from the department to provide confirmatory HIV testing from a laboratory other than the
31 state laboratory, and shall forward all positive and negative confirmatory HIV tests results to the
32 department.

33 (e) Except in the case of anonymous HIV testing, a health care provider working within
34 the scope of his or her practice providing samples of specimens for HIV testing, or results of HIV

1 tests to the department, shall include the name of the patient and other identifying information
2 including information related to the individual's health insurance policy as applicable.

3 (f) Any HIV cases reported in the previous code based system, shall remain in a code-
4 based data set. This does not prohibit a physician from submitting or requesting that an updated
5 name case report on a patient replace a previously coded case report.

6 **23-6.3-16. Insurance Exemption.** – (a) Sections 23-6.3-1 through 23-6.3-14 do not
7 apply to the offering or sale of life insurance in Rhode Island; provided, however, that any
8 insurance company offering or selling life insurance within Rhode Island that requires an
9 individual to be tested for infection with human immunodeficiency virus (HIV) or any other
10 identified causative agent of HIV for purposes of determining insurability shall: (1) Give that
11 individual prior written notice of those requirements; (2) Proceed with that testing only upon the
12 written authorization of the individual or in the event the individual is a minor, the individual's
13 parent or guardian; and (3) Notify the tested person of his or her positive or negative test results.
14 If the person has a positive test result he or she must receive appropriate information and referral
15 from the insurance company. Notwithstanding anything in this chapter to the contrary, life
16 insurance companies offering or selling life insurance in Rhode Island may otherwise obtain or
17 disclose HIV test results in accordance with this chapter. Nothing in this chapter prohibits that
18 company from collecting data for statistical purposes, so long as the insured is not identified.
19 However, nothing in this section shall be construed to permit that insurance company to cancel or
20 refuse to renew a life insurance policy that by its terms has not lapsed on the basis of a positive
21 HIV test result.

22 (b) The provisions of this chapter apply to the offer or sale of health benefits in this state
23 by any company regulated under the laws of this state, including, but not limited to, title 27 and
24 chapter 42-62, provided, however, this chapter does not apply to the following:

25 (1) Individual health benefit policies;

26 (2) Small group health benefits plans, i.e., groups having fewer than twenty-five (25)
27 employees eligible to participate in an employer sponsored plan, or, in the case of non-employer
28 groups, a group having fewer than twenty-five (25) employees;

29 (3) Late entrants into any group health benefits plan, regardless of the size of the group.
30 A late entrant shall be defined as any individual who does not enroll into a health plan when first
31 eligible under the plan, but who later seeks coverage under the group plan;

32 (4) Where an individual seeks to become eligible for an amount of group disability
33 income benefit, which benefit would be in excess of the insurer's non-medical maximum as
34 defined under the group plan.

1 (c) Any company offering or selling health benefits in this state and regulated under the
2 laws of this state that requires an individual to be tested for infection with HIV or any other
3 identified causative agent of HIV as permitted in paragraphs (2)(i) to (iv) for purposes of
4 determining insurability shall: (1) Give that individual prior written notice of those requirements;
5 and (2) Proceed with that testing only upon the written authorization of the individual, or in the
6 event the individual is a minor, the individual's parent or guardian. Notwithstanding anything in
7 this chapter to the contrary, companies offering or selling health benefits in this state may
8 otherwise obtain or disclose HIV test results in accordance with this chapter. Nothing in this
9 chapter shall prohibit that company from collecting data for statistical purposes so long as the
10 identity of the insured may not be determined from the information released.

11 (d) Nothing in this chapter shall be construed to permit any company that offers or sells
12 health benefits in this state to cancel or refuse to renew a health benefit, which has not by its
13 terms lapsed, on the basis of a positive HIV test result.

14 **23-6.3-17. Rules and Regulations.** -- The director is authorized to promulgate
15 regulations as he or she deems necessary or desirable to implement the provisions of this chapter,
16 in accordance with the provisions set forth in section 23-1-17 and chapter 42-35.

17 **23-6.3-18. Severability.** -- If any provision of this chapter is held by a court to be invalid,
18 that invalidity shall not affect the remaining provisions of the chapter, and to this end the
19 provisions of the chapter are declared severable.

20 **23-6.3-19. Construction of the chapter.** -- This chapter shall be liberally construed to
21 accomplish the purposes sought in it.

22 SECTION 2. Section 11-34-10 in chapter 11-34 of the General Laws entitled
23 "Prostitution and Lewdness" is hereby amended to read as follows:

24 **11-34-10. Human Immunodeficiency Virus (HIV).** -- ~~(a)~~ Any person convicted of a
25 violation of any provisions of this chapter shall be required to be tested for Human
26 Immunodeficiency Virus (HIV) as provided for in chapter 23-6.3. ~~No consent for the testing shall~~
27 ~~be required.~~

28 ~~(b) The department of health shall maintain sites for providing both anonymous and~~
29 ~~confidential HIV testing, and HIV counseling and referral. Each site, funded by the department of~~
30 ~~health, shall offer free testing, counseling and referral for indigent parties and other individuals~~
31 ~~without health insurance, offer a sliding scale for payment for all other individuals and, in the~~
32 ~~case of confidential testing, screen for ability to pay through a third party insurer. In the case of~~
33 ~~nonfunded sites for HIV testing, organizations and/or institutions performing the test shall offer~~
34 ~~free testing, counseling and referral for indigent parties and other individuals without health~~

1 ~~insurance.~~

2 ~~(c) All persons tested under this section shall be provided pre test and post test~~
3 ~~counseling by individuals trained by the department of health, as an HIV testing counselor, in~~
4 ~~accordance with regulations promulgated by the department of health; provided, that the~~
5 ~~counseling shall be in accordance with acceptable medical standards.~~

6 ~~(d) All persons who are tested under this section, who are determined to be injecting~~
7 ~~drug users, shall be referred to appropriate sources of substance abuse treatment by the HIV~~
8 ~~testing counselor and/or the attending practitioner as follows:~~

9 ~~(1) Those persons who test positive for HIV infection shall be given priority for those~~
10 ~~outpatient substance abuse treatment programs that are sponsored or supported by the appropriate~~
11 ~~state agency responsible for these services.~~

12 ~~(2) Those persons who are injecting drug users and test negative for HIV infection shall~~
13 ~~be referred, by the HIV testing counselor and/or attending practitioner, to the appropriate state~~
14 ~~agency responsible for these services for earliest possible evaluation and treatment~~

15 SECTION 3. Section 11-37-17 in chapter 11-37 of the General Laws entitled "Sexual
16 Assault" is hereby amended to read as follows:

17 **11-37-17. Human Immunodeficiency Virus (HIV) – Mandatory testing.** -- (a) Any
18 person who has admitted to or been convicted of or adjudicated wayward or delinquent by reason
19 of having committed any sexual offense involving sexual penetration, as defined in § 11-37-1,
20 whether or not sentence or fine is imposed or probation granted, shall be ordered by the court
21 upon the petition of the victim, immediate family members of the victim or legal guardian of the
22 victim, to submit to a blood test for the presence of a sexually transmitted disease including, but
23 not limited to, the Human Immunodeficiency Virus (HIV) which causes Acquired Immune
24 Deficiency Syndrome (AIDS) as provided for in chapter 23-6.3. ~~Notwithstanding the provision of~~
25 ~~§ 23-6-12, no consent for the testing shall be required.~~

26 (b) Notwithstanding the limitations imposed by §§ 23-6-17 and 5-37.3-4, the results of
27 the HIV test shall be reported to the court, which shall then disclose the results to any victim of
28 the sexual offense who requests disclosure. Review and disclosure of blood test results by the
29 courts shall be closed and confidential, and any transaction records relating to them shall also be
30 closed and confidential.

31 ~~(c) Upon the victim's request, the department of health shall help provide HIV testing,~~
32 ~~as well as professional counseling to assist the victim in their understanding of the extent to~~
33 ~~which the particular circumstances of the crime may or may not have put the victim at risk of~~
34 ~~transmission of HIV from the perpetrator, to ensure that the victim understands both the benefits~~

1 ~~and limitations of the current test for HIV, and to obtain referrals to appropriate health care and~~
2 ~~support services.~~

3 ~~(d) All persons tested under this section shall be informed of the results of the blood~~
4 ~~test.~~

5 ~~(e) Pretest and post test counseling shall be in accordance with regulations adopted by~~
6 ~~the department of health; provided, that this counseling shall be in accordance with acceptable~~
7 ~~medical standards.~~

8 SECTION 4. Section 21-28-4.20 in chapter 21-28 of the General Laws entitled "Uniform
9 Controlled Substances Act" is hereby amended to read as follows:

10 **21-28-4.20. Human Immunodeficiency Virus (HIV) – Testing.** -- (a) Any person
11 convicted of possession of any controlled substance that has been administered with a
12 hypodermic instrument, retractable hypodermic syringe, needle, or any similar instrument
13 adapted for the administration of drugs shall be required to be tested for human
14 immunodeficiency virus (HIV) as provided for in chapter 23-6.3. ~~No consent for the testing shall~~
15 ~~be required.~~

16 ~~(b) The department of health shall maintain sites for providing both anonymous and~~
17 ~~confidential HIV testing, and HIV counseling and referral. Each site, funded by the department of~~
18 ~~health, shall offer free testing, counseling and referral for indigent parties and other individuals~~
19 ~~without health insurance, offer a sliding scale for payment for all other individuals and, in the~~
20 ~~case of confidential testing, screen for ability to pay through a third party insurer. In the case of~~
21 ~~nonfunded sites for HIV testing, organizations and/or institutions performing the test shall offer~~
22 ~~free testing, counseling and referral for indigent parties and other individuals without health~~
23 ~~insurance.~~

24 ~~(c) All persons tested under this section shall be provided pre test and post test~~
25 ~~counseling by individuals trained by the department of health in accordance with regulations~~
26 ~~promulgated by the department of health; provided, that this counseling shall be in accordance~~
27 ~~with acceptable medical standards.~~

28 ~~(d) All persons who are tested under this section, who are convicted of possession of~~
29 ~~any controlled substance that has been administered with a hypodermic instrument, retractable~~
30 ~~hypodermic syringe, needle, or any similar instrument adopted for the administration of drugs~~
31 ~~shall be referred by the HIV testing counselor and/or attending practitioner to appropriate sources~~
32 ~~of drug treatment by the department of health as follows:~~

33 ~~(1) Those persons who test positive for HIV infection shall be given priority for those~~
34 ~~outpatient treatment programs which are supported by a state agency;~~

1 ~~(2) Those persons who test negative for HIV infection shall be referred to the~~
2 ~~appropriate division in the department of health for earliest possible evaluation and treatment.~~

3 SECTION 5. Section 23-11-17 in chapter 23-11 of the General Laws entitled “Sexually
4 Transmitted Diseases” is hereby amended to read as follows:

5 **23-11-17. Human immunodeficiency virus (HIV) testing.** -- ~~(a)~~ (1) The physician or
6 health care provider attending any person for a suspected sexually transmitted disease shall offer
7 testing for human immunodeficiency virus (HIV). All testing pursuant to this section shall be
8 ~~performed in accordance with sections 23-6-17 (confidentiality) and 23-6-18 (protection of the~~
9 ~~medical record) and the informed consent standards contained in chapter 6 of title 23~~ as provided
10 for in chapter 23-6.3.

11 ~~(2) Each person tested and counseled shall first be provided with an "informed consent~~
12 ~~form" as provided by subsection 23-6-11(3), and shall specifically be given the opportunity to~~
13 ~~decline or opt out of testing, which he or she shall sign and date in acknowledgment of his/her~~
14 ~~election to be tested.~~

15 ~~(b) In the event an individual consents to anonymous testing and tests positive for HIV,~~
16 ~~the HIV testing counselor shall provide the client an informed consent form as provided by~~
17 ~~subsection 23-6-11(3). If an individual is tested anonymously and is found positive on the initial~~
18 ~~screening test or during a post test consultation, the counselor shall discuss, with the client,~~
19 ~~options regarding referrals and reporting of this positive screening, including the necessity of~~
20 ~~accessing a physician. The department of health shall maintain sites for providing both~~
21 ~~anonymous and confidential HIV testing, and HIV counseling and referral. Each site, funded by~~
22 ~~the department of health, shall offer free testing, counseling and referral for indigent parties and~~
23 ~~other individuals without health insurance, offer a sliding scale for payment for all other~~
24 ~~individuals and, in the case of confidential testing, screen, for ability to pay through a third party~~
25 ~~insurer. In the case of nonfunded sites for HIV testing, organizations and/or institutions~~
26 ~~performing the test shall offer free testing, counseling and referral for indigent parties and other~~
27 ~~individuals without health insurance.~~

28 ~~(c) All persons tested under this section shall be counseled and tested in accordance with~~
29 ~~regulations promulgated by the department of health; provided, however, that the counseling shall~~
30 ~~be in accordance with acceptable medical standards, and no test results shall be given by any~~
31 ~~means (e.g. phone, mail, e mail, fax, etc.) other than in person. Counselors for HIV counseling,~~
32 ~~testing and referral must undergo training given by the department of health to become a qualified~~
33 ~~professional counselor.~~

34 SECTION 6. Section 23-13-19 in chapter 23-13 of the General Laws entitled “Maternal

1 and Child Health Services for Children with Special Health Care Needs “ is hereby amended to
2 read as follows:

3 **23-13-19. Human immunodeficiency virus (HIV) testing.** -- (a) Every physician or
4 health care provider attending any person for prenatal care or family planning services shall
5 include HIV screening consistent with the provisions of chapter 23-6.3. ~~in these settings so as to~~
6 ~~promote earlier detection of HIV with unrecognized or no identified risk factors. HIV testing~~
7 ~~shall be included in the routine panel of prenatal tests for all pregnant women unless testing is~~
8 ~~declined. Repeat testing in the third trimester is recommended if determined by the physician.~~

9 (b) ~~No person shall order the performance of an HIV-related test without first providing~~
10 ~~the information and counseling set forth in subsection 23-13-19(c), informing the woman that she~~
11 ~~has a right to decline testing, and obtaining the oral consent of the patient to be tested, or of a~~
12 ~~person authorized to consent to health care for such individual, which consent and counseling~~
13 ~~shall be documented in the patient's medical record.~~

14 (c) ~~Prior to performing an HIV-related test, patients shall be provided pre-test~~
15 ~~counseling. To allow greater flexibility for pre-test counseling by allowing client specific~~
16 ~~counseling, a physician or health care provider may tailor HIV counseling to best meet the needs~~
17 ~~of the individual to be tested. Decisions concerning tailoring and the extent of pre-test counseling~~
18 ~~shall be made on a case-by-case basis, but in no event shall a woman be tested for HIV pursuant~~
19 ~~to this section without being provided with oral or written information that includes the~~
20 ~~following:~~

- 21 (1) ~~An explanation of HIV infection;~~
22 (2) ~~A description of the interventions that can reduce HIV transmission from mother to~~
23 ~~infant;~~
24 (3) ~~The meaning of positive and negative test results;~~
25 (4) ~~An opportunity to ask questions.~~

26 ~~The department of health shall provide appropriate health care providers with the~~
27 ~~written information, in multiple languages, required in subsections (1), (2) and (3) herein.~~

28 (d) ~~No physician or health care professional providing prenatal health services to a~~
29 ~~pregnant woman shall perform an HIV test of any woman who has not given consent to testing.~~

30 (e) ~~In the event that a pregnant woman tests positive for HIV/AIDS, the physician,~~
31 ~~health care provider or counselor shall provide post-test counseling, which shall include~~
32 ~~information about:~~

- 33 (1) ~~The meaning of the test result;~~
34 (2) ~~The possible need for additional testing;~~

- 1 ~~(3) Measures to prevent the transmission of HIV;~~
2 ~~(4) Measures to prevent perinatal HIV transmission; and~~
3 ~~(5) The availability of, and referrals for, appropriate health care services, including~~
4 ~~mental health care, and appropriate social and support services.~~

5 ~~(f) All HIV testing pursuant to this section shall be kept confidential in accordance with~~
6 ~~§ 23-6-17.~~

7 ~~(g) No physician or health care provider shall discriminate against a woman because~~
8 ~~she is HIV positive or has declined to take an HIV test.~~

9 ~~(h) In the event an individual consents to anonymous testing and tests positive for HIV,~~
10 ~~the HIV testing counselor shall discuss with the client options regarding referrals and reporting of~~
11 ~~this positive screening, including the necessity of accessing a physician. The department of health~~
12 ~~shall maintain sites for providing both anonymous and confidential HIV testing, and HIV~~
13 ~~counseling and referral. Each site, funded by the department of health, shall offer free testing,~~
14 ~~counseling and referral for indigent parties and other individuals without health insurance, offer a~~
15 ~~sliding scale for payment for all other individuals and, in the case of confidential testing, screen~~
16 ~~for ability to pay through a third party insurer. In the case of nonfunded sites for HIV testing,~~
17 ~~organizations and/or institutions performing the test shall offer free testing, counseling and~~
18 ~~referral for indigent parties and other individuals without health insurance.~~

19 ~~(i) All persons tested under this section shall be counseled and tested in accordance~~
20 ~~with regulations promulgated by the department of health.~~

21 SECTION 7. Sections 23-17-31 and 23-17-31.1 in chapter 23-17 of the General Laws
22 entitled "Licensing of Health Care Facilities" are hereby amended to read as follows:

23 **23-17-31. Human immunodeficiency virus (HIV) testing – Hospitals.** -- (a) Hospital
24 patients in any hospital licensed under this chapter shall be offered testing for human
25 immunodeficiency virus (HIV) as set forth in chapter 23-6.3. ~~unless excluded by regulations~~
26 ~~developed by the department of health, or unless the test is deemed inappropriate by a physician~~
27 ~~caring for the patient and so noted in the person's medical record. All testing pursuant to this~~
28 ~~section shall be performed in accordance with §§ 23-6-12 and 23-6-13. The identity of the~~
29 ~~individuals tested under this section shall be maintained only at the hospital site where the sample~~
30 ~~is drawn, and shall not be released except as provided by statute. Each person who is offered a~~
31 ~~test and counseling shall be provided with an "informed consent form" which he or she shall sign~~
32 ~~and date in acknowledgment of the offer.~~

33 ~~(b) The department of health is responsible for reasonable costs associated with~~
34 ~~performing and reporting the results of the HIV tests.~~

1 ~~(c) All persons tested under this section shall be provided pretest and post test~~
2 ~~counseling, and the department of health shall define in regulation the nature and scope of the~~
3 ~~counseling. The counseling shall be in accordance with acceptable medical standards.~~

4 ~~(d) The department of health will either provide or pay for all pretest and post test~~
5 ~~counseling. It will negotiate with the hospitals concerning incremental costs associated with~~
6 ~~pretest and post test counseling and will provide reasonable reimbursement of these costs or~~
7 ~~provide the services themselves in the case of post test counseling.~~

8 **23-17-31.1. Human immunodeficiency virus (HIV) testing – Facilities for drug**

9 **users.** -- (a) Every physician or health care provider attending any person for any service offered
10 at a facility for injecting drug users, shall offer testing for human immunodeficiency virus (HIV).
11 All testing pursuant to this section shall be performed in accordance with [the provisions of](#)
12 [chapter 23-6.3](#) ~~§§ 23-6-17 (confidentiality) and 23-6-18 (protection of records)~~, except where
13 federal confidentiality laws may supersede.

14 ~~(b) Each person tested and counseled shall first be provided an "informed consent~~
15 ~~form" as provided by subsection 23-6-11(3), which he/she shall sign and date, and shall~~
16 ~~specifically be given the opportunity to decline or opt out of the testing.~~

17 ~~(c) In the event an individual consents to anonymous testing and tests positive for HIV,~~
18 ~~the HIV testing counselor shall discuss, with the client, options regarding referrals and reporting~~
19 ~~of this positive screening, including the necessity of accessing a physician.~~

20 ~~(d)~~(b) The department of health shall maintain sites for providing both anonymous and
21 confidential HIV testing, and HIV counseling and referral. Each site, funded by the department of
22 health, shall offer free testing, counseling and referral for indigent parties and other individuals
23 without health insurance, offer a sliding scale for payment for all other individuals and, in the
24 case of confidential testing, screen for ability to pay through a third-party insurer. In the case of
25 nonfunded sites for HIV testing, organizations and/or institutions performing the test shall offer
26 free testing, counseling and referral for indigent parties and other individuals without health
27 insurance.

28 ~~(e) All persons tested under this section shall be counseled and tested in accordance~~
29 ~~with regulations adopted by the department of health.~~

30 SECTION 8. Section 40.1-24-20 in chapter 40.1 of the General Laws entitled "Licensing
31 of Facilities and Programs for People who are Mentally Ill and/or Developmentally Disabled" is
32 hereby amended to read as follows:

33 **40.1-24-20. Human immunodeficiency virus (HIV) testing – Facilities for drug**

34 **users.** -- (a) Every physician or health care provider attending any person for any service offered

1 at a facility for intravenous drug users, shall offer testing for human immunodeficiency virus
2 (HIV). All testing pursuant to this section shall be performed in accordance with [the provisions of](#)
3 [chapter 23-6.3](#) ~~§§ 23-6-17 (confidentiality) and 23-6-18 (protection of medical records) and the~~
4 ~~informed consent standards contained in chapter 6 of title 23, except where federal confidentiality~~
5 ~~laws may supercede.~~

6 (b) ~~Each person tested and counseled shall first be provided with an "informed consent~~
7 ~~form" as provided by subsection 23-6-11(3), which he/she shall sign and date, and shall~~
8 ~~specifically be given the opportunity to decline or opt-out of the testing.~~

9 (c) ~~In the event an individual consents to anonymous testing and tests positive for HIV,~~
10 ~~the HIV testing counselor shall discuss with the client options regarding referrals and reporting of~~
11 ~~this positive screening, including the necessity of accessing a physician.~~

12 (d) ~~The department of health shall assist providers with performing and reporting the~~
13 ~~results of the HIV tests.~~

14 (e) ~~The department of health shall maintain sites for providing both anonymous and~~
15 ~~confidential HIV testing, and HIV counseling and referral. Each site, funded by the department of~~
16 ~~health, shall offer free testing, counseling and referral for indigent parties and other individuals~~
17 ~~without health insurance, offer a sliding scale for payment for all other individuals and, in the~~
18 ~~case of confidential testing, screen for ability to pay through a third party insurer. In the case of~~
19 ~~nonfunded sites for HIV testing, organizations and/or institutions performing the test shall offer~~
20 ~~free testing, counseling and referral for indigent parties and other individuals without health~~
21 ~~insurance.~~

22 (f) ~~All persons tested under this section shall be counseled and tested in accordance~~
23 ~~with regulations promulgated by the department of health.~~

24 SECTION 9. Section 23-1-36.1 in chapter 23-1 of the General Laws entitled "Department
25 of Health" is hereby repealed.

26 ~~23-1-36.1 Director's duties regarding diseases—Marriage licenses.—The director of~~
27 ~~health shall prepare and submit to the clerk's office of each city and town in the state a packet~~
28 ~~containing all appropriate information relating to any disease, including but not limited to,~~
29 ~~sexually transmitted diseases or general health issue as the director of health deems necessary, for~~
30 ~~distribution to all persons applying for a marriage license. The individual packet shall include an~~
31 ~~"AIDS Testing and Notification Form" which shall clearly state that the department of health~~
32 ~~provides confidential HIV tests, at no costs, and further provides pre-test and post-test~~
33 ~~educational materials and post-test counseling for HIV positive persons in accordance with~~
34 ~~regulations adopted by the department of health; provided, however, that any counseling shall be~~

1 ~~in accordance with acceptable medical standards.~~

2 SECTION 10. Sections 23-6-10, 23-6-11, 23-6-12, 23-6-13, 23-6-14, 23-6-15, 23-6-16,
3 23-6-17, 23-6-18, 23-6-19, 23-6-20, 23-6-21, 23-6-22, 23-6-23, 23-6-24, 23-6-25, 23-6-26 and
4 23-6-27 in chapter 23-6 of the General Laws entitled "Prevention and Suppression of Contagious
5 Diseases" are hereby repealed.

6 ~~**23-6-10 Purpose.**— The purpose of §§ 23-6-10—23-6-24 is to protect the public
7 against transmission of human immunodeficiency virus (HIV), and to protect persons who are
8 infected with HIV from discrimination.~~

9 ~~**23-6-11 Definitions.**— As used in §§ 23-6-10—23-6-24:~~

10 ~~(1) "AIDS" means the medical condition known as acquired immune deficiency
11 syndrome, caused by infection of an individual by the human immunodeficiency virus (HIV).~~

12 ~~(2) "HIV" means the human immunodeficiency virus, the pathogenic organism
13 responsible for the acquired immunodeficiency syndrome (AIDS).~~

14 ~~(3) "Informed consent form" means a standardized form provided by the Rhode Island
15 department of health to those individuals offered HIV testing. The form shall be developed by the
16 department and shall contain the following information:~~

17 ~~(i) The public health rationale for HIV testing and information describing the nature of
18 the HIV disease;~~

19 ~~(ii) The availability and cost of HIV testing and counseling;~~

20 ~~(iii) That test results are confidential with certain exceptions;~~

21 ~~(iv) A list of exceptions to confidentiality of test results;~~

22 ~~(v) That the test is voluntary and that an informed consent form must be signed before
23 testing;~~

24 ~~(vi) That by signing this form the person is only acknowledging that the HIV test and
25 counseling have been offered and/or that he or she has declined (opted out) the offer to be tested;
26 and~~

27 ~~(vii) Notwithstanding the provisions of subsections (v) and (vi) above, in the event an
28 individual consents to anonymous testing, the HIV testing counselor and/or attending practitioner
29 ordering the test shall receive only verbal confirmation from the client that the client understands
30 all applicable information contained within the informed consent form.~~

31 ~~(4) "HIV test" means any currently medically accepted diagnostic test for determining
32 infection of an individual by HIV.~~

33 ~~(5) "Person" means any individual, firm, partnership, corporation, company,
34 association, or joint stock association, state or political subdivision or instrumentality of a state.~~

1 ~~—(6) "Physician" means a person licensed to practice allopathic or osteopathic medicine~~
2 ~~pursuant to the provisions of chapter 37 of title 5.~~

3 ~~(7) "Services" means health care and social support services.~~

4 ~~(8) "Occupational health representative" is an individual, within a health care facility,~~
5 ~~trained to respond to occupational, particularly blood borne, exposures.~~

6 ~~**23-6-12 Testing.**—(a) Recommendations regarding HIV testing shall reference the most~~
7 ~~current guidelines issued by the Centers for Disease Control and Prevention (CDC) pertaining to~~
8 ~~HIV Counseling, Testing and Referral of Adults, Adolescents and Pregnant Women; provided,~~
9 ~~however, those guidelines shall be interpreted by the department of health so as to best serve the~~
10 ~~clients and patients seeking HIV testing, and shall in no event be interpreted or implemented in a~~
11 ~~manner inconsistent with the minimum informed consent standards of this Title or other~~
12 ~~protections of state law. The recommendations shall emphasize that: (1) HIV screening is~~
13 ~~recommended in all health care settings, after the patient is informed, in accordance with this~~
14 ~~chapter's informed consent standards, that HIV testing will be done unless the patient declines;~~
15 ~~(2) persons at high risk for HIV infection should be screened for HIV at least annually, in~~
16 ~~accordance with this chapter's informed consent standards; and (3) only verbal informed consent~~
17 ~~is required for anonymous testing.~~

18 ~~(b) Unless otherwise excepted by the provisions of this chapter, no person may be~~
19 ~~tested for the presence of HIV where the test result can be identified with a specific individual,~~
20 ~~unless he or she has given his or her informed consent by his or her signature or that of a parent,~~
21 ~~guardian, or agent on a written informed consent form specifically relating to the test after~~
22 ~~discussion of implications of the test with a qualified professional. A physician or health care~~
23 ~~provider attending to any person who may be at risk for HIV infection shall routinely offer the~~
24 ~~HIV test to those patients. All testing pursuant to this section shall be performed in accordance~~
25 ~~with §§ 23-6-17 (confidentiality) and 23-6-18 (protection of the medical record) and this chapter's~~
26 ~~informed consent standards.~~

27 ~~(c) In the event an individual consents to anonymous testing and tests positive for HIV,~~
28 ~~the HIV testing counselor shall discuss with the client options regarding referrals and reporting of~~
29 ~~this positive screening, including the necessity of accessing a physician.~~

30 ~~(d) In addition to, and separate from, the requirement of subdivision 23-6-26(b)(4), all~~
31 ~~HIV CD4 T lymphocyte test results and all HIV viral load detection test results, detectable and~~
32 ~~nondetectable, shall be reported to the department of health through a department designed~~
33 ~~reporting system that uses a nonname based code and contains no patient identifying information.~~
34 ~~These reports may be used by the department to improve the clinical progress of patients through~~

1 ~~contact with their physicians, and to use the aggregate information collected to develop and~~
2 ~~improve prevention programs and create better access to care.~~

3 ~~**23-6-13 Informed consent form.**—The written informed consent form shall include at~~
4 ~~least the following:~~

- 5 ~~(1) The name and signature of the party(s) seeking and consenting to the HIV test;~~
- 6 ~~(2) The name and nature of the test;~~
- 7 ~~(3) The reasons for conducting the test;~~
- 8 ~~(4) The fact that the test results shall remain confidential except as required by law; and~~
- 9 ~~(5) Explanation of how test results will affect the tested person's ability to obtain~~
10 ~~services from the party requesting the test, or those for whom he or she is acting.~~

11 ~~**23-6-14. Exceptions.**—A physician or other health care provider may secure a test~~
12 ~~sample for the presence of HIV without consent under the following conditions:~~

- 13 ~~-(1) When the person to be tested is under one year of age;~~
- 14 ~~-(2) When the person to be tested is between one and thirteen (13) years of age and~~
15 ~~appears to be symptomatic for HIV;~~
- 16 ~~-(3) When the person to be tested is a minor under the care and authority of the~~
17 ~~department of children, youth, and families, and the director of that department certifies that an~~
18 ~~HIV test is necessary to secure health or human services for that person;~~
- 19 ~~-(4) When a person (the complainant) can document significant exposure to blood or~~
20 ~~other bodily fluids of another person (the individual to be tested), during the performance of the~~
21 ~~complainant's occupation, providing:~~
 - 22 ~~-(i) The complainant completes an incident report within forty eight (48) hours of the~~
23 ~~exposure, identifying the parties to the exposure, witnesses, time, place, and nature of the event;~~
 - 24 ~~-(ii) The complainant submits to a baseline HIV test and is negative on that test for the~~
25 ~~presence of HIV, within seventy two (72) hours of the exposure;~~
 - 26 ~~-(iii) There has been a significant percutaneous or mucus membrane exposure, i.e.,~~
27 ~~needlestick, bite, splash over open wound, broken skin, or mucus membrane, by blood or bodily~~
28 ~~fluids of the person to be tested of a type and in sufficient concentration to permit transmission of~~
29 ~~HIV if present in those fluids; and~~
 - 30 ~~-(iv) If a sample of the patient's blood is not otherwise available and the patient refuses to~~
31 ~~grant informed consent, then the complainant may petition the superior court for a court order~~
32 ~~mandating that the test be performed.~~

33 ~~-(5) (i) In a licensed health care facility or in the private office of a physician in the event~~
34 ~~that an occupational health representative or physician, registered nurse practitioner, physician~~

1 ~~assistant, or nurse midwife not directly involved in the exposure, determines that a health care~~
2 ~~provider, other than one in a supervisory position to the person making the determination had a~~
3 ~~significant exposure to the blood and/or body fluids of a patient and the patient or the patient's~~
4 ~~guardian refuses to grant consent for an HIV test to determine whether the patient has HIV, then,~~
5 ~~if a sample of the patient's blood is available, that blood shall be tested for HIV.~~

6 ~~(ii) If a sample of the patient's blood is not otherwise available and the patient refuses to~~
7 ~~grant informed consent, then the health care worker may petition the superior court for a court~~
8 ~~order mandating that the test be performed.~~

9 ~~(iii) Before a patient or a sample of the patient's blood is required to undergo an HIV~~
10 ~~test, the health care provider must submit to a baseline HIV test within seventy two (72) hours of~~
11 ~~the exposure.~~

12 ~~(iv) No person who determines that a health care worker has sustained a significant~~
13 ~~exposure and authorizes the HIV testing of a patient, nor any person or health care facility who~~
14 ~~acts in good faith and recommends the test be performed, shall have any liability as a result of~~
15 ~~their actions carried out under this chapter, unless those persons are proven to have acted in bad~~
16 ~~faith.~~

17 ~~(6) In an emergency, where due to a grave medical or psychiatric condition, it is~~
18 ~~impossible to obtain consent from the patient or the patient's parent, guardian, or agent.~~

19 ~~(7) As permitted under sections 23-18.6.1-14(c) and (d) (organ transplant), 23-1-38~~
20 ~~(sperm donation), and 23-8-1.1 (person under eighteen (18) years may give consent for testing for~~
21 ~~communicable diseases).~~

22 ~~(8) Mandatory testing for human immunodeficiency virus (HIV) conducted pursuant to~~
23 ~~sections 42-56-37 (testing at ACI), 11-34-10 (prostitution), and 21-28-4.20 (IDU and needles).~~

24 ~~**23-6-15 Reasonable effort to secure consent.**— No involuntary testing for HIV shall~~
25 ~~take place under any of the exceptions set forth in § 23-6-14 until reasonable efforts have been~~
26 ~~made to secure voluntary informed consent.~~

27 ~~**23-6-16 Due process — Right to bring suit.**— Nothing in §§ 23-6-10—23-6-24 shall be~~
28 ~~construed to limit or deprive any person of his or her right to due process of law, or to bar an~~
29 ~~action for relief and/or damages before a court of competent jurisdiction.~~

30 ~~**23-6-17 Confidentiality.**— (a) It is unlawful for any person to disclose to a third party~~
31 ~~the results of an individual's HIV test without the prior written consent of that individual, or in the~~
32 ~~case of a minor, the minor's parent, guardian, or agent, on a form that specifically states that HIV~~
33 ~~test results may be released, except:~~

34 ~~(1) A licensed laboratory or other health care facility which performs HIV tests shall~~

1 ~~report test results to a patient's licensed physician or other medical personnel who requested the~~
2 ~~test, and to the director of the department of health, pursuant to rules and regulations adopted for~~
3 ~~that purpose.~~

4 ~~(2) A physician:~~

5 ~~(i) May enter HIV test results in the medical record, as would be the case with any~~
6 ~~other diagnostic test;~~

7 ~~(ii) May notify other health professionals directly involved in the care of the individual~~
8 ~~testing positive on the HIV test, or to whom that individual is referred for treatment;~~

9 ~~(iii) May notify persons exposed to blood or other body fluids of an individual who~~
10 ~~tests positive for HIV, pursuant to § 23-6-14(4) through (8) (exceptions) and § 23-17-31 (testing~~
11 ~~of hospitalized patients);~~

12 ~~(iv) May notify the director of the department of children, youth, and families, pursuant~~
13 ~~to § 23-6-14(3) (testing of a minor to secure services); and~~

14 ~~(v) May inform third parties with whom an HIV-infected patient is in close and~~
15 ~~continuous exposure related contact, including but not limited to a spouse and/or partner, if the~~
16 ~~nature of the contact, in the physician's opinion, poses a clear and present danger of HIV~~
17 ~~transmission to the third party, and if the physician has reason to believe that the patient, despite~~
18 ~~the physician's strong encouragement, has not and will not inform the third party that they may~~
19 ~~have been exposed to HIV;~~

20 ~~(3) As permitted in subsections (b)(1), (2), (5), (6), (8), (9), (10), (11), (12), (13), (14),~~
21 ~~and (15) of § 5-37-3-4 (confidentiality of health care information) and § 40-1-5-26 (disclosure of~~
22 ~~confidential information under mental health law), or as otherwise required by law.~~

23 ~~(4) By a health care provider to appropriate persons entitled to receive notification of~~
24 ~~persons with infectious or communicable diseases pursuant to §§ 23-5-9 (report of infectious~~
25 ~~disease upon death) and 23-28-36-3 (notification to EMT, firefighter, police officer of infectious~~
26 ~~disease).~~

27 ~~(b) Facilities and other health care providers subject to this section will have~~
28 ~~documentation that each person with access to any confidential information understands and~~
29 ~~acknowledges that the information may not be disclosed except as provided herein. The director~~
30 ~~shall establish protocols for collecting, maintaining and transferring the information (and~~
31 ~~ultimately destroying the information) to ensure the integrity of the transfer, and, if possible, the~~
32 ~~director may suspend any transfer, even to CDC, if he or she is not confident that the transfer is~~
33 ~~secure.~~

34 ~~**23-6-18 Protection of records.**—(a) Providers of health care, public health officials, and~~

1 ~~any other person who maintains records containing information on HIV test results of individuals~~
2 ~~are responsible for maintaining full confidentiality of these data, as provided in § 23-6-17, and~~
3 ~~shall take appropriate steps for their protection, including:~~

4 ~~(1) Keeping records secure at all times and establishing adequate confidentiality~~
5 ~~safeguards for any records electronically stored;~~

6 ~~(2) Establishing and enforcing reasonable rules limiting access to these records; and~~

7 ~~(3) Training persons who handle records in security objectives and technique.~~

8 ~~(b) The department shall evaluate reports of HIV/AIDS for completeness and potential~~
9 ~~referrals for service. All case reports shall be kept in a confidential and secure setting. An~~
10 ~~HIV/AIDS policy and protocol for security shall be developed and implemented by the~~
11 ~~department for this purpose.~~

12 ~~(1) The department shall evaluate its procedures for HIV/AIDS reporting on a~~
13 ~~continuous basis for timeliness, completeness of reporting, and security of confidential~~
14 ~~information.~~

15 ~~(2) The department's protocol shall be in accordance with the recommendations of the~~
16 ~~December 10, 1999 Morbidity and Mortality Weekly Report Recommendations and Reports,~~
17 ~~"CDC Guidelines for National Human Immunodeficiency Virus Case Surveillance, including~~
18 ~~monitoring for Human Immunodeficiency Virus infection and Acquired Immunodeficiency~~
19 ~~Syndrome" document, or its successor document, that pertains to patient records and~~
20 ~~confidentiality; provided, however, that in no event shall the protocol be less protective than that~~
21 ~~required by state law.~~

22 ~~(3) All reports and notifications made pursuant to this section shall be confidential and~~
23 ~~protected from release except under the provisions of this law. Any person aggrieved by a~~
24 ~~violation of this section shall have a right of action in the superior court and may recover for each~~
25 ~~violation:~~

26 ~~(i) Against any person who negligently violates a provision of this section, damages of~~
27 ~~one thousand dollars (\$1,000) or actual damages, whichever is greater.~~

28 ~~(ii) Against any person who intentionally or recklessly violates a provision of this~~
29 ~~section, damages of five thousand dollars (\$5,000) or actual damages, whichever is greater.~~

30 ~~(iii) Reasonable attorneys' fees;~~

31 ~~(iv) Such other relief, including an injunction, as the court may deem appropriate; and~~

32 ~~(v) Any action under this section is barred unless the action is commenced within three~~
33 ~~(3) years after the cause of action accrues. A cause of action shall accrue when the injured party~~
34 ~~becomes aware of an unauthorized disclosure~~

1 ~~**23-6-19 Penalties and remedies.**—The penalties and remedies contained in § 5-37.3-9~~
2 ~~shall apply to violations of §§ 23-6-17 and 23-6-18.~~

3 ~~**23-6-20. Notification of disclosure.**—In all cases when an individual's HIV test results~~
4 ~~are disclosed to a third party, other than a person involved in the care and treatment of the~~
5 ~~individual, and except as permitted by subsections (a)(1), (a)(2)(i), (a)(2)(ii), (a)(2)(iv), or (a)(4)~~
6 ~~of section 23-6-17 (permitted disclosures re: confidentiality), and permitted by and disclosed in~~
7 ~~accordance with the Federal Health Insurance Portability and Accountability Act of 1996 (Public~~
8 ~~law 104-191) enacted on August 21, 1996 and as thereafter amended, the person so disclosing~~
9 ~~shall make reasonable efforts to inform that individual in advance of:~~

10 ~~(1) The nature and purpose of the disclosure;~~

11 ~~(2) The date of disclosure;~~

12 ~~(3) The recipient of the disclosed information.~~

13 ~~**23-6-21 Protection of public health.**—Nothing contained in §§ 23-6-10—23-6-24 shall~~
14 ~~bar the director of health from exercising the authority and responsibilities conferred on him or~~
15 ~~her by law in protecting the public health.~~

16 ~~**23-6-22 Discrimination prohibited.**—No person, agency, organization, or corporate~~
17 ~~body may discriminate against a person on the basis of a positive HIV test result, or perception of~~
18 ~~a positive test, in housing, employment, the granting of credit, public accommodation, or delivery~~
19 ~~of services, nor shall an HIV test be required as a condition of employment, except where~~
20 ~~nondiscrimination can be shown, on the testimony of competent medical authorities, to constitute~~
21 ~~a clear and present danger of HIV transmission to others.~~

22 ~~**23-6-23 Administrative relief.**—Any person who believes that he or she has been~~
23 ~~unlawfully discriminated against in housing, employment, the granting of credit, public~~
24 ~~accommodations, or delivery of services on the basis of a positive HIV test, or perception of a~~
25 ~~positive test, may bring action for administrative relief before the Rhode Island human rights~~
26 ~~commission; and that commission may~~

27 ~~**23-6-24. Insurance exemption.**—(a) Sections 23-6-10—23-6-23 do not apply to the~~
28 ~~offering or sale of life insurance in Rhode Island; provided, however, that any insurance company~~
29 ~~offering or selling life insurance within Rhode Island that requires an individual to be tested for~~
30 ~~infection with human immunodeficiency virus (HIV) or any other identified causative agent of~~
31 ~~HIV for purposes of determining insurability shall: (1) give that individual prior written notice of~~
32 ~~those requirements, and (2) proceed with that testing only upon the written authorization of the~~
33 ~~individual or in the event the individual is a minor, the individual's parent or guardian.~~
34 ~~Notwithstanding anything in sections 23-6-10—23-6-23 to the contrary, life insurance companies~~

1 ~~offering or selling life insurance in Rhode Island may otherwise obtain or disclose HIV test~~
2 ~~results in accordance with section 23-6-17(3). Nothing in this chapter prohibits that company~~
3 ~~from collecting data for statistical purposes, so long as the insured is not identified. However,~~
4 ~~nothing in this section shall be construed to permit that insurance company to cancel or refuse to~~
5 ~~renew a life insurance policy that by its terms has not lapsed on the basis of a positive HIV test~~
6 ~~result.~~

7 ~~(b) (1) "Health benefits" include accident and sickness, including disability or health~~
8 ~~insurance, health benefit plans and/or policies, hospital, health, or medical service plans, or any~~
9 ~~health maintenance organization plan pursuant to title 27 or otherwise.~~

10 ~~(2) The provisions of sections 23-6-10—23-6-23 apply to the offer or sale of health~~
11 ~~benefits in this state by any company regulated under the laws of this state, including, but not~~
12 ~~limited to, title 27 and chapter 62 of title 42; provided, however, sections 23-6-10—23-6-23 do~~
13 ~~not apply to the following:~~

14 ~~(i) Individual health benefit policies;~~

15 ~~(ii) Small group health benefits plans, i.e., groups having fewer than twenty five (25)~~
16 ~~employees eligible to participate in an employer sponsored plan, or, in the case of non-employer~~
17 ~~groups, a group having fewer than twenty five (25) employees;~~

18 ~~(iii) Late entrants into any group health benefits plan, regardless of the size of the group.~~
19 ~~A late entrant shall be defined as any individual who does not enroll into a health plan when first~~
20 ~~eligible under the plan, but who later seeks coverage under the group plan;~~

21 ~~(iv) Where an individual seeks to become eligible for an amount of group disability~~
22 ~~income benefit, which benefit would be in excess of the insurer's non-medical maximum as~~
23 ~~defined under the group plan.~~

24 ~~(3) Any company offering or selling health benefits in this state and regulated under the~~
25 ~~laws of this state that requires an individual to be tested for infection with HIV or any other~~
26 ~~identified causative agent of HIV as permitted in paragraphs (2)(i) to (iv) for purposes of~~
27 ~~determining insurability shall: (i) give that individual prior written notice of those requirements,~~
28 ~~and (ii) proceed with that testing only upon the written authorization of the individual, or in the~~
29 ~~event the individual is a minor, the individual's parent or guardian. Notwithstanding anything in~~
30 ~~this chapter to the contrary, companies offering or selling health benefits in this state may~~
31 ~~otherwise obtain or disclose HIV test results in accordance with section 23-6-17(a)(3). Nothing in~~
32 ~~this chapter shall prohibit that company from collecting data for statistical purposes so long as the~~
33 ~~insured's name is not identified.~~

34 ~~(4) Nothing in this chapter shall be construed to permit any company that offers or sells~~

1 ~~health benefits in this state to cancel or refuse to renew a health benefit, which has not by its~~
2 ~~terms lapsed, on the basis of a positive HIV test result.~~

3 ~~(c) (1) There is established a commission to develop and recommend to the legislature a~~
4 ~~risk pool plan under which all insurers issuing health insurance in the state shall participate and~~
5 ~~share a proportion of the risk and cost of insuring people with HIV.~~

6 ~~(2) The commission consists of eleven (11) members; three (3) of whom shall be~~
7 ~~members of the house of representatives, not more than two (2) from the same political party, to~~
8 ~~be appointed by the speaker of the house; two (2) of whom shall be members of the senate, not~~
9 ~~more than one of whom shall be from the same political party, to be appointed by the president of~~
10 ~~the senate; one of whom shall be the director of the department of health, or his or her designee;~~
11 ~~one of whom shall be the director of the department of business regulation, or his or her designee;~~
12 ~~two (2) of whom shall be representatives of the insurance community, to be appointed by the~~
13 ~~governor; and two (2) of whom shall be representatives of AIDS project Rhode Island, to be~~
14 ~~appointed by the governor.~~

15 ~~(3) The commission shall meet at the call of the speaker.~~

16 ~~**23-6-25. Alternative test sites.** --- The department of health shall maintain sites for~~
17 ~~providing both anonymous and confidential HIV testing, and HIV counseling and referral. Each~~
18 ~~site, funded by the department of health, shall offer free testing, counseling and referral for~~
19 ~~indigent parties and other individuals without health insurance, offer a sliding scale for payment~~
20 ~~for all other individuals and, in the case of confidential testing, screen for ability to pay through a~~
21 ~~third party insurer. In the case of nonfunded sites for HIV testing, organizations and/or~~
22 ~~institutions performing the test shall offer free testing, counseling and referral for indigent parties~~
23 ~~and other individuals without health insurance.~~

24 ~~**23-6-26. Laboratory analysis for HIV.** --- (a) HIV/AIDS is regarded to cause significant~~
25 ~~morbidity and mortality, can be screened, diagnosed and treated, and is of major public health~~
26 ~~concern, such that surveillance of the disease occurrence is in the public interest, and therefore~~
27 ~~shall be designated as notifiable and reportable by name.~~

28 ~~(b) Under this provision the following shall be reported:~~

29 ~~(1) A diagnosis of HIV, according to the U.S. Centers for Disease Control and~~
30 ~~Prevention case definition of HIV.~~

31 ~~(2) A diagnosis of AIDS, according to the U.S. Centers for Disease Control and~~
32 ~~Prevention case definition of AIDS.~~

33 ~~(3) A positive ELIZA result of any HIV test and/or other FDA approved test indicative~~
34 ~~of the presence of HIV.~~

1 ~~(4) CD4 T lymphocyte test results <200 mg degrees l and/or fourteen percent (14%).~~

2 ~~(5) A perinatal exposure of a newborn to HIV indicated by two (2) positive PCR tests;~~
3 ~~<18 months; and/or other U.S. Food and Drug Administration approved tests that indicate the~~
4 ~~presence of HIV in pediatric cases.~~

5 ~~(6) Other U.S. Food and Drug Administration approved tests indicative of the presence~~
6 ~~of HIV/AIDS, as approved by the department.~~

7 ~~(c) All biological samples or specimens taken from Rhode Island residents for the~~
8 ~~purpose of performing laboratory analysis for the detection of antibody to human~~
9 ~~immunodeficiency virus (HIV), by or under the direction or order of any physician licensed to~~
10 ~~practice medicine in this state, or on order of any duly licensed health care provider shall be sent~~
11 ~~to the Rhode Island department of health laboratory for analysis. This provision shall not apply to~~
12 ~~those HIV tests performed in a hospital laboratory. Hospitals shall forward all positive HIV test~~
13 ~~results to the department of health. The department of health laboratory shall conduct all~~
14 ~~confirmatory testing for HIV/AIDS; exceptions, for alternative testing methods, may be granted~~
15 ~~through written approval by the department of health.~~

16 ~~(d) Except in the case of anonymous testing, a physician or laboratory or duly licensed~~
17 ~~health care provider providing samples or specimens for HIV testing, or results of HIV tests to~~
18 ~~the department, shall include the name of the patient.~~

19 ~~(e) Any HIV cases reported in the previous code based system, shall remain in a code~~
20 ~~based data set. The department of health shall only use and require HIV name case reports~~
21 ~~submitted after the enactment of this law.~~

22 ~~(f) In addition to, and separate from, the requirement of subdivision 23-6-26(b)(4), all~~
23 ~~HIV CD4 T lymphocyte test results and all HIV viral load detection test results, detectable and~~
24 ~~nondetectable, shall be reported to the department of health through a department designed~~
25 ~~reporting system that uses a nonname based code and contains no patient identifying information.~~
26 ~~These reports may be used by the department to improve the clinical progress of patients through~~
27 ~~contact with their physicians, and to use the aggregate information collected to develop and~~
28 ~~improve prevention programs and create better access to care.~~

29 **23-6-27. Reporting of HIV/AIDS and perinatal exposure of newborns.** ~~— (a) The~~
30 ~~following persons shall report information required by this section to the department's HIV/AIDS~~
31 ~~surveillance team:~~

32 ~~(1) A physician/health care provider who diagnoses or treats HIV/AIDS;~~

33 ~~(2) The administrator of a health care facility as defined in Rhode Island general laws~~
34 ~~chapter 23-17 who diagnoses or treats HIV/AIDS; or~~

1 ~~-(3) The administrator of a prison in which there is an HIV/AIDS infected person or~~
2 ~~perinatal exposure to HIV/AIDS.~~

3 ~~Reports provided under this section shall specify the infected person's name, as well as~~
4 ~~all information required on the official department HIV Case Report Form.~~

5 ~~-(b) Any high managerial agent who is responsible for the administration of a clinical or~~
6 ~~hospital laboratory, blood bank, mobile unit, or other facility in which a laboratory examination~~
7 ~~of any specimen derived from a human body yields serological, or other evidence of HIV/AIDS,~~
8 ~~including perinatal exposure to HIV/AIDS shall notify the department in a timely manner as~~
9 ~~stipulated in the rules promulgated by the department. Reports provided under this section shall~~
10 ~~specify the name as well as all information indicated on the official department HIV Case Report~~
11 ~~Form.~~

12 ~~-(c) Reports as required by this section shall only be made if confirmed with a Western~~
13 ~~Blot or other FDA-approved confirmatory test.~~

14 ~~-(1) All facilities obtaining blood from human donors for the purpose of transfusion or~~
15 ~~manufacture of blood products shall report HIV/AIDS consistent with this section.~~

16 ~~-(2) Any laboratory that processes specimens shall permit the department to examine the~~
17 ~~records of said laboratory, facility, or office in order to evaluate compliance with this section.~~

18 ~~-(d) Perinatal HIV/AIDS exposure reporting shall be made to the department regardless~~
19 ~~of confirmatory testing.~~

20 ~~-(e) Reports required by this section shall be mailed within forty eight (48) hours of~~
21 ~~diagnosis or treatment, to the department using a designated envelope that shall be provided by~~
22 ~~the department's HIV/AIDS Surveillance Team. Any other reporting method shall be approved in~~
23 ~~advance by the department.~~

24 ~~-(f) Nothing in this section shall preclude the performance of anonymous HIV/AIDS~~
25 ~~testing.~~

26 SECTION 11. Section 42-51-9 of the General Laws in Chapter 42-51 entitled
27 "Governor's Commission on Disabilities" is hereby amended to read as follows:

28 **42-51-9. Definitions.** -- The following words and terms, unless the context clearly
29 indicates a different meaning, shall have the following meanings:

30 (1) "People with disabilities" or "individuals with disabilities" means any person who:

31 (i) Has a physical or mental impairment that substantially limits one or more of the
32 person's major life activities;

33 (ii) Has a record of that impairment; or

34 (iii) Is regarded as having that impairment.

1 (2) "Federal and state laws protecting the rights of individuals with disabilities" means,
2 but is not limited to, the Americans with Disabilities Act of 1990, 42 U.S.C. section 12101 et
3 seq.; Title V of the Rehabilitation Act of 1973, 29 U.S.C. section 794; R.I. Const., art. I, section
4 2; the provisions of chapter 87 of title 42 and sections ~~23-6-22~~ [23-6.3-11](#), 37-8-15, 37-8-15.1 and
5 42-46-13.

6 (3) "State agency" means any department, division, agency, commission, board, office,
7 bureau, council, or authority, either branch of the Rhode Island general assembly or any agency
8 or any committee thereof, or any other agency that is in any branch of Rhode Island state
9 government and which exercises governmental functions.

10 (4) "Coordinating compliance" means the authority to:

11 (i) Issue guidelines, directives, or instructions that are necessary to effectuate compliance
12 with federal and state laws protecting the rights of individuals with disabilities;

13 (ii) Establish a grievance procedure to promptly and equitably resolve complaints of
14 noncompliance with federal and state laws protecting the rights of individuals with disabilities
15 involving state agencies, including the power to investigate possible discrimination and eliminate
16 unlawful practices by informal methods of conference, conciliation, and persuasion;

17 (iii) Initiate complaints against any state agency that willfully fails to comply with
18 federal and state laws protecting the rights of individuals with disabilities to the appropriate state
19 or federal agency; and

20 (iv) Develop, make periodic revisions to, and oversee the implementation of a transition
21 plan for the removal of environmental and communication barriers in state-owned facilities.

22 (5) "Providing technical assistance to public and private agencies, businesses, and
23 citizens on complying with federal and state laws protecting the rights of individuals with
24 disabilities" means information dissemination and training designed to encourage the voluntary
25 compliance with laws protecting the rights of individuals with disabilities; conducting disability
26 accessibility surveys and providing advice on how to overcome any barriers to accessibility; and a
27 mediation service to assist parties who voluntarily chose to utilize that service to resolve
28 allegations of discrimination on the basis of disability.

29 (6) "Promoting on behalf of the people with disabilities and assuring, on behalf of the
30 state, that people with disabilities are afforded the opportunities to exercise all of the rights and
31 responsibilities accorded to citizens of this state" means the authority to act and appear on behalf
32 of the people with disabilities to present evidence and make arguments before any federal, state or
33 local agency or public body regarding matters pending before that agency or public body that
34 may have an adverse effect on persons with disabilities.

1 SECTION 12. This act shall take effect on July 1, 2009.

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LC01238/SUB B/2
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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO HEALTH AND SAFETY

1 This act would add a new chapter on the prevention and supervision of contagious
2 diseases, specifically HIV/AIDS and make technical amendments affected by that new chapter.

3 This act would take effect on July 1, 2009.

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LC01238/SUB B/2
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