

Act No. 514  
Public Acts of 2004  
Approved by the Governor  
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**STATE OF MICHIGAN  
92ND LEGISLATURE  
REGULAR SESSION OF 2004**

Introduced by Senators Bernero, George, Thomas, Schauer, Jacobs and Hammerstrom

# **ENROLLED SENATE BILL No. 1129**

AN ACT to amend 1978 PA 368, entitled "An act to protect and promote the public health; to codify, revise, consolidate, classify, and add to the laws relating to public health; to provide for the prevention and control of diseases and disabilities; to provide for the classification, administration, regulation, financing, and maintenance of personal, environmental, and other health services and activities; to create or continue, and prescribe the powers and duties of, departments, boards, commissions, councils, committees, task forces, and other agencies; to prescribe the powers and duties of governmental entities and officials; to regulate occupations, facilities, and agencies affecting the public health; to regulate health maintenance organizations and certain third party administrators and insurers; to provide for the imposition of a regulatory fee; to provide for the levy of taxes against certain health facilities or agencies; to promote the efficient and economical delivery of health care services, to provide for the appropriate utilization of health care facilities and services, and to provide for the closure of hospitals or consolidation of hospitals or services; to provide for the collection and use of data and information; to provide for the transfer of property; to provide certain immunity from liability; to regulate and prohibit the sale and offering for sale of drug paraphernalia under certain circumstances; to provide for the implementation of federal law; to provide for penalties and remedies; to provide for sanctions for violations of this act and local ordinances; to provide for an appropriation and supplements; to repeal certain acts and parts of acts; to repeal certain parts of this act; and to repeal certain parts of this act on specific dates," 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:*

Sec. 5114. (1) Except as otherwise provided in this section, a person or governmental entity that obtains from a test subject a test result that indicates that the test subject is HIV infected or from a test subject who has already been diagnosed as HIV infected a test result ordered to evaluate immune system status, to quantify HIV levels, or to diagnose acquired immunodeficiency syndrome shall, within 7 days after obtaining a diagnostic test result or, for a nondiagnostic test result, within a time frame as determined by the department, report to the appropriate local health department or, if requested by the local health department, to the department on a form provided by the department or through electronic methods approved by the department all of the following information, if available:

- (a) The name and address of the person or governmental entity that submits the report.
- (b) The name, address, and telephone number of the health care provider who diagnosed the test subject or who ordered the test.
- (c) The name, date of birth, race, sex, address, and telephone number of the test subject.
- (d) The date on which the specimen was collected for testing.
- (e) The type of test performed.
- (f) The test result.

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

(h) The probable method of transmission.

(i) The purpose of the test.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(iii) Other information considered appropriate by the department.

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

(7) Information acquired by the department or a local health department under this section or section 5114 is exempt from disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(8) The department in consultation with local health departments shall submit a biennial report to the standing committees in the senate and house of representatives responsible for legislation pertaining to public health on the effect of this section on the department's efforts to monitor and control HIV infection and acquired immunodeficiency syndrome. The report shall include, but not be limited to, statistics on the total number of index cases reported, the total number of index cases reported with information identifying the test subject or a partner of the test subject, and the total number of partners actually contacted under this section, and an assessment of the effectiveness of the program, and recommendations to improve the effectiveness of the program, if any. The statistics included in the report shall be broken down by local health department jurisdiction.

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

This act is ordered to take immediate effect.

*Carol Morey Viventi*

Secretary of the Senate

*Ray E. Randall*

Clerk of the House of Representatives

Approved .....

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Governor