

CORRECTIONS CODE OF 1953 (EXCERPT)
Act 232 of 1953

791.267b Exposure of employee to blood or body fluid of prisoner; request to test prisoner for HIV or HBV infection; form and contents of request; determination; prisoner consent not required; counseling; determination not requiring HIV or HBV infection testing; notice of HIV or HBV test results; confidentiality; forms; violation of subsection (8) as misdemeanor; report; definitions.

Sec. 67b.

(1) If an employee of the department sustains a percutaneous, mucous membrane, or open wound exposure to the blood or body fluids of a prisoner, the employee may request that the prisoner be tested for HIV infection or HBV infection, or both, pursuant to this section.

(2) An employee shall make a request described in subsection (1) to the department in writing on a form provided by the department within 72 hours after the exposure occurs. The request form shall be dated and shall contain at a minimum the name and address of the employee making the request and a description of his or her exposure to the blood or other body fluids of the prisoner. The request form shall contain a space for the information required under subsection (6) and a statement that the requester is subject to the confidentiality requirements of subsection (8) and section 5131 of the public health code, 1978 PA 368, MCL 333.5131. The request form shall not contain information that would identify the prisoner.

(3) Upon receipt of a request under this section, the department shall make a determination as to whether or not there is reasonable cause to believe that the exposure described in the request occurred and if it was a percutaneous, mucous membrane, or open wound exposure pursuant to R 325.70001 to R 325.70018 of the Michigan administrative code. If the department determines that there is reasonable cause to believe that the exposure described in the request occurred and was a percutaneous, mucous membrane, or open wound exposure, the department shall test the prisoner for HIV infection or HBV infection, or both, as indicated in the request, subject to subsection (4).

(4) In order to protect the health, safety, and welfare of department employees, the department may test a prisoner under subsection (3) whether or not the prisoner consents to the test. The department is not required to give the prisoner an opportunity for a hearing or to obtain an order from a court of competent jurisdiction before administering the test.

(5) The department is not required to provide HIV counseling pursuant to section 5133(1) of the public health code, 1978 PA 368, MCL 333.5133, to an employee who requests that a prisoner be tested for HIV under this section, unless the department tests the employee for HIV.

(6) The department shall comply with this subsection if the department receives a request under this section and determines either that there is not reasonable cause to believe the requester's description of his or her exposure or that the exposure was not a percutaneous, mucous membrane, or open wound exposure and as a result of the determination the department is not required to test the prisoner for HIV infection or HBV infection, or both. The department shall state in writing on the request form the reason it determined there was not reasonable cause to believe the requester's description of his or her exposure or for the department's determination that the exposure was not a percutaneous, mucous membrane, or open wound exposure, as applicable. The department shall transmit a copy of the completed request form to the requesting individual within 2 days after the date the department makes the determination described in this subsection.

(7) The department shall notify the requesting employee of the HIV or HBV test results, or both, whether positive or negative, within 2 days after the test results are obtained by the department. The notification shall be transmitted directly to the requesting employee or, upon request of the requesting employee, to his or her primary care physician or other health professional designated by the employee. The notice required under this subsection shall include an explanation of the confidentiality requirements of subsection (8).

(8) The notice required under subsection (7) shall not contain information that would identify the prisoner who tested positive or negative for HIV or HBV. The information contained in the notice is confidential and is subject to this section, the rules promulgated under section 5111 of the public health code, 1978 PA 368, MCL 333.5111, and section 5131 of the public health code, 1978 PA 368, MCL 333.5131. A person who receives confidential information under this section shall disclose the information to others only to the extent consistent with the authorized purpose for which the information was obtained.

(9) The department shall develop and distribute the forms required under this section.

(10) In addition to the penalties prescribed in the rules promulgated under section 5111 of the public health code, 1978 PA 368, MCL 333.5111 and in section 5131 of the public health code, 1978 PA 368, MCL 333.5131, a person who discloses information in violation of subsection (8) is guilty of a misdemeanor.

(11) The department shall report to the department of community health each test result obtained under this section that indicates that an individual is HIV infected, in compliance with section 5114 of the public health code,

1978 PA 368, MCL 333.5114.

(12) As used in this section:

(a) "Employee" means an individual who is employed by or under contract to the department of corrections.

(b) "HBV" means hepatitis B virus.

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

(d) "HIV" means human immunodeficiency virus.

(e) "HIV infected" means that term as defined in section 5101 of the public health code, 1978 PA 368, MCL 333.5101.

History: Add. 1996, Act 565, Imd. Eff. Jan. 16, 1997 ;-- Am. 2010, Act 120, Imd. Eff. July 13, 2010

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