

# MAINE STATE LEGISLATURE

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SECOND REGULAR SESSION

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ONE HUNDRED AND THIRTEENTH LEGISLATURE

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Legislative Document

NO. 2483

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H.P. 1815                      House of Representatives, March 9, 1988  
Approved for introduction by a majority of the  
Legislative Council pursuant to Joint Rule 26.

Reference to the Committee on Human Resources suggested  
and ordered printed.

EDWIN H. PERT, Clerk  
Presented by Representative SEAVEY of Kennebunkport.  
Cosponsored by Representative DELLERT of Gardiner and  
Senator DUTREMBLE of York.

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STATE OF MAINE

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IN THE YEAR OF OUR LORD  
NINETEEN HUNDRED AND EIGHTY-EIGHT

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1                      **AN ACT to Establish Procedures for the**  
2                      **Testing and Control of AIDS.**  
3

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4                      Be it enacted by the People of the State of Maine as  
5                      follows:

6                      Sec. 1.    5 MRSA §19201, sub-§§1-A, 1-B, 2-A, 5-B,  
7                      7-A and 7-B are enacted to read:

8                      1-A. Blood bank. "Blood bank" means any

1 institution, building or place which provides through  
2 its ownership or operation a system for collection,  
3 processing, storage preliminary to transfusion and  
4 administration of whole human blood or its component  
5 parts, or which purports to perform any of these acts  
6 or provide any of these services.

7 1-B. Employer. "Employer" means any person,  
8 hospital, clinic, corporation, public agency or other  
9 entity which employs a health care worker to perform  
10 health care services and, in the case of a  
11 self-employed health care worker, includes that worker.

12 2-A. Health care worker. "Health care worker"  
13 means any physician, nurse, orderly, paramedic,  
14 psychologist, phlebotomist or other person who  
15 provides any kind of health care service and has  
16 direct or indirect contact with patients or food,  
17 drugs or other materials used by or around patients.

18 5-B. Medical laboratory. "Medical laboratory"  
19 has the same meaning as set forth in Title 22, section  
20 2014, subsection 4.

21 7-A. Sperm bank. "Sperm bank" means any facility  
22 or program that is involved in procuring, furnishing,  
23 donating or distributing semen for purposs of  
24 artificial insemination.

25 7-B. Tissue bank. "Tissue bank" means any  
26 facility or program that is involved in procuring,  
27 furnishing, donating, processing or distributing  
28 corneas, bones, organs or other human tissue for the  
29 purpose of injecting, transfusing or transplanting any  
30 of them in the human body.

31 Sec. 2. 5 MRSA §19203, sub-§1, as repealed and  
32 replaced by PL 1987, c. 539, is amended to read:

33 1. Subject of test. To the subject of the test  
34 or the subject's legally authorized representative;

35 Sec. 3. 5 MRSA §19203, sub-§7, as repealed and  
36 replaced by PL 1987, c. 539, is amended to read:

1           7. Other agencies. To other agencies responsible  
2 for the custodial care of individuals, such as the  
3 Department of Corrections and the Department of Mental  
4 Health and Mental Retardation; or

5           Sec. 4. 5 MRSA §19203, sub-§8, as enacted by PL  
6 1987, c. 539, is amended to read:

7           8. Bureau of Health. To the Bureau of Health, to  
8 carry out its duties as provided in Title 22, sections  
9 3, 7 and 42 and chapter 251-;

10          Sec. 5. 5 MRSA §19203, sub-§§ 9 to 15 are  
11 enacted to read:

12          9. Person securing a legally effective release.  
13 To any person who secures a legally effective release  
14 of the test results executed by the subject of the  
15 test or the subject's legally authorized  
16 representative;

17          10. Spouse of subject. To the spouse of the  
18 subject of the test;

19          11. Authorized agent or employee of health care  
20 provider. To an authorized agent or employee of a  
21 health facility or health care provider if the health  
22 facility or health care provider is authorized to  
23 obtain the test results, if the agent or employee  
24 provides patient care or handles or processes  
25 specimens of body fluids or tissues and if the agent  
26 or employee has a need to know that information;

27          12. Centers for Disease Control. To any Center  
28 for Disease Control of the United States Public Health  
29 Service in accordance with reporting requirements for  
30 a diagnosed case of AIDS, AIDS Related Complex or  
31 exposure to HIV;

32          13. Funeral directors or embalmers. To a funeral  
33 director or embalmer licensed to practice pursuant to  
34 Title 32, chapter 21, subchapter III, and in  
35 accordance with the requirements of the Bureau of  
36 Health for labeling the body of a deceased person who  
37 was known or suspected to have a communicable disease

1 in order to assure the taking of necessary precautions  
2 during the embalming process;

3 14. Health facility staff committees. To health  
4 facility staff committees on accreditation or health  
5 care services review organizations for the purposes of  
6 conducting program monitoring, program evaluation or  
7 service reviews; or

8 15. Person authorized by court order. To a  
9 person authorized by a court order entered after a  
10 finding that the person seeking the test results has  
11 demonstrated a compelling need for the test results  
12 which cannot be accommodated by other means. In  
13 assessing compelling need, the court shall weigh the  
14 need for disclosure against the privacy interest of  
15 the test subject. Upon the issuance of an order to  
16 disclose test results, the court shall impose  
17 appropriate safeguards against unauthorized  
18 disclosure, which shall specify the persons who may  
19 have access to the information, the purposes for which  
20 the information shall be used and appropriate  
21 prohibitions on future disclosure.

22 Sec. 6. 5 MRSA §19203-A, sub-§1, as repealed  
23 and replaced by PL 1987, c. 539, is amended to read:

24 1. Individual tested. Except as provided in  
25 section 19203, subsections 4 and 5, and in Title 34-A,  
26 section 3037, subsection 3 and section 3047-A, no  
27 person may test for the presence of antibodies to HIV  
28 without first obtaining the written informed consent  
29 of the person to be tested. Anonymous test sites  
30 under section 19203-B, are exempt from the requirement  
31 that the informed consent be in writing.

32 Sec. 7. 5 MRSA §§19208 - 19215 are enacted to  
33 read:

34 §19208. Contact tracing and anonymous contact  
35 referral programs

36 1. In-state contact tracing program. The  
37 department shall endeavor to contact each person in  
38 this State who has been reported to the department as

1 having a diagnosed case of AIDS or AIDS Related  
2 Complex or as having tested positive on the Western  
3 Blot Assay, or as having been found to have been  
4 infected with HIV by a more reliable test than the  
5 Western Blot Assay, and shall request from that person  
6 information on the identities of all persons with whom  
7 the contacted person has had intimate sexual relations  
8 in the preceding 7 years. If medical studies indicate  
9 a longer incubation period, inquiry shall be made for  
10 whatever that incubation period is determined to be.

11 2. Notification. The department shall endeavor  
12 to notify all persons identified under subsection 1  
13 who are likely to have been exposed to AIDS, and shall:

14 A. Inform them of their risk of exposure;

15 B. Advise them on the availability of testing;

16 C. Provide information on the nature of the  
17 disease and its means of transmission and  
18 prevention; and

19 D. Offer referrals for counseling or treatment,  
20 when appropriate.

21 3. Confidentiality. In making contacts under  
22 this section, the department shall endeavor to protect  
23 and respect the confidentiality and dignity of the  
24 persons contacted and shall not disclose the identity  
25 of the individual who provided the names of the  
26 persons contacted. The identification of sexual  
27 contacts under this section shall be voluntary and the  
28 department may not use any coercion or threat to  
29 obtain cooperation. All information received by the  
30 department or its agents under this section shall be  
31 kept strictly confidential and shall not be subject to  
32 inspection or copying under the federal or state  
33 freedom of access laws. The department and its agents  
34 shall endeavor to make any computer or other file in  
35 which such information is maintained as secure as  
36 possible.

37 4. Delegation of duties to local health  
38 authorities; review. The department may delegate its

1 duties under this section to local health authorities  
2 unless the local authority either refuses or neglects  
3 to conduct this contact tracing program in a manner  
4 deemed to be effective by the department. The  
5 department shall review quarterly the performance of  
6 the local health authorities to which it has delegated  
7 its duties under this section. If the department  
8 determines that any local health authority is not  
9 carrying out its responsibilities under this section,  
10 the department shall immediately assume responsibility  
11 for the previously delegated program and local  
12 authority program records shall immediately become the  
13 property of the department.

14 5. Pilot study of anonymous contact referral.  
15 The department shall undertake a pilot study of  
16 anonymous contact referral by seeking the cooperation  
17 of persons anonymously testing positive for HIV  
18 infection at an anonymous testing site established,  
19 pursuant to section 19203-B, in encouraging their  
20 sexual contacts to report to the site for testing.

21 6. Intravenous drug users. The department shall  
22 undertake a pilot study of both contact tracing and  
23 anonymous contact referral with respect to those  
24 persons who may abuse drugs by intravenous injection,  
25 or may have been sexual partners of drug abusers, or  
26 may have abused substances so that their immune  
27 systems are impaired, making them high-risk.

28 7. Education. The department shall require all  
29 programs under this section to include an education  
30 component to inform participants regarding the causes  
31 and means of transmission and methods of reducing the  
32 risk of acquiring or transmitting AIDS.

33 8. Report. The department shall report at least  
34 semi-annually, but more frequently if deemed necessary  
35 by the commissioner, to the Legislature regarding the  
36 reasonable inferences that may be derived from the  
37 results of AIDS-related tests which may be required by  
38 law and the contact tracing required by this section.  
39 These reports shall include a comparison of the  
40 efficacy of contact tracing and of anonymous contact  
41 referral, shall be in statistical form only and shall

1 not contain any information which identifies  
2 individuals.

3 9. Immunity from suit. No person contacted under  
4 this section who reveals the name or names of sexual  
5 contacts during the course of an investigation shall  
6 be held liable in a civil action for such revelation,  
7 unless the revelation is made falsely or with reckless  
8 disregard for the truth.

9 10. Violations. The following are violations of  
10 this section.

11 A. Any person who knowingly violates the  
12 confidentiality of any information gathered or  
13 maintained under this section commits a Class D  
14 crime and, upon conviction, in addition to any  
15 other penalty provided by law, shall be fined an  
16 amount up to \$10,000 for each record illegally  
17 disclosed. In no event may the total fine be less  
18 than \$10,000.

19 B. Any local governmental employee or other  
20 individual who attempts or succeeds in destroying  
21 any program records specified in subsection 4 is  
22 guilty of a Class D crime and, in addition to any  
23 other penalty provided by law, shall be fined an  
24 amount up to \$10,000 for each record destroyed.  
25 In no event may the total fine be less than  
26 \$10,000.

27 §19209. Department of Human Services to obtain  
28 records on Maine residents infected  
29 with HIV.

30 The Department of Human Services shall obtain  
31 records on Maine residents infected with HIV as  
32 follows.

33 1. Federal and out-of-state records. The  
34 department shall, within 30 days after the effective  
35 date of this section and thereafter from time to time,  
36 seek records which may be obtained from the United  
37 States Armed Forces, federal agencies and other states  
38 and jurisdictions on Maine residents who have been



1 found to be infected with HIV, for purposes of contact  
2 tracing.

3 2. Reporting by health care professionals and  
4 facilities. To facilitate the contact tracing  
5 required by section 19208, the department shall  
6 require health care professionals, hospitals,  
7 laboratories and other facilities which diagnose that  
8 infection to report to the department the identity of  
9 any person who has AIDS or AIDS Related Complex or who  
10 has been found to have been infected with HIV by  
11 testing positive on the Western Blot Assay or a more  
12 reliable test, not including any person tested  
13 anonymously at an alternative testing site under  
14 section 19208, subsection 5 or 6, and shall require  
15 the submission of such other pertinent information as  
16 the department deems necessary or appropriate for  
17 purposes of section 19208. The department may  
18 promulgate rules pursuant to the Maine Administrative  
19 Procedure Act, Title 5, chapter 375, specifying the  
20 types of information required, requirements for  
21 follow-up of patients, frequency of reporting, methods  
22 of submitting that information and any other  
23 provisions deemed by the department to be necessary or  
24 appropriate for the administration of this section and  
25 section 19208.

26 3. Confidentiality. The department shall protect  
27 the confidentiality of information gathered and  
28 maintained under this section. Notwithstanding  
29 section 19203, the department may release information  
30 gathered and maintained under this section only if the  
31 release is:

32 A. In a statistical, nonidentifiable form;

33 B. To a person or organization which is qualified  
34 to perform data processing or data analysis and  
35 that person or organization has satisfied the  
36 department that it has taken measures to safeguard  
37 against unauthorized disclosure of that  
38 information;

39 C. To a local, state or federal public health  
40 agency for the purpose of contact tracing; or

1 D. To a health department of another state in the  
2 case of information concerning a person who is  
3 residing in that state.

4 4. Violations. The following penalties shall  
5 apply to violations of this section.

6 A. Any person who is required to report and who  
7 fails or refuses to submit the information  
8 required by this section or by rule to the  
9 department commits a civil violation for which a  
10 penalty in an amount up to \$10,000 shall be  
11 adjudged for each such failure or refusal to  
12 report required information in a timely fashion.  
13 In no event may the total penalty imposed be less  
14 than \$10,000.

15 B. Any person who knowingly violates the  
16 confidentiality of any information gathered or  
17 maintained under this section commits a Class D  
18 crime and, upon conviction, in addition to any  
19 other penalty provided by law, shall be fined an  
20 amount up to \$10,000 for each record illegally  
21 disclosed. In no event may the total fine be less  
22 than \$10,000.

23 §19210. Health care workers to report AIDS diagnosis  
24 to employer

25 1. Health care workers with AIDS;  
26 confidentiality. Any health care worker who has been  
27 diagnosed as having AIDS or AIDS Related Complex, or  
28 who has been shown to have been exposed to HIV or any  
29 other causative agent of AIDS by testing positive on a  
30 Western Blot Assay or more reliable test, shall  
31 immediately notify the health care worker's employer  
32 of that fact in writing. Failure to make the  
33 notification within 3 days of returning to work after  
34 such diagnosis, or within 30 days after the effective  
35 date of this section, whichever is later, shall  
36 constitute grounds for the loss of any professional  
37 license, certificate or registration under which the  
38 health care worker is allowed to practice in this  
39 State. The employer shall protect the confidentiality

1 of that notice.

2 2. Employer to take appropriate measures to  
3 protect patients. Any employer of health care workers  
4 who is notified under section 19208, subsection 2, or  
5 who otherwise learns that a health care worker in his  
6 employ or otherwise under his control has been  
7 diagnosed as having AIDS or AIDS Related Complex, or  
8 has been shown to have been exposed to HIV or any  
9 other causative agent of AIDS by testing positive on a  
10 Western Blot Assay or more reliable test, shall  
11 immediately take appropriate measures to protect  
12 patients from possible infection, in accordance with  
13 the applicable rules of the Department of Human  
14 Services and the recommendations of the Centers for  
15 Disease Control of the United States Public Health  
16 Service. These measures may include limiting direct  
17 contact between patients and the diagnosed health care  
18 worker.

19 §19211. Drug or sex crime testing

20 1. Testing of persons convicted of prostitution  
21 or other sex offenses. Whenever a defendant is  
22 convicted of an offense under Title 17-A, sections 252  
23 to 255, 852, 853, 853-A, 853-B or 855, the defendant  
24 shall undergo medical testing to determine whether the  
25 defendant has been exposed to HIV or any other  
26 identified causative agent of AIDS. Any medical test  
27 shall be performed only by an appropriately licensed  
28 medical practitioner and may include an analysis of  
29 any bodily fluids as well as an examination of the  
30 defendant's person. Except as otherwise provided by  
31 law, the results of the test shall be kept strictly  
32 confidential by all medical personnel involved in the  
33 testing and must be personally delivered in a sealed  
34 envelope to the justice or judge of the court in which  
35 the conviction was entered for the justice's or  
36 judge's inspection in camera. Acting in accordance  
37 with the best interests of the victim and the public,  
38 the justice or judge shall have the discretion to  
39 determine to whom, if anyone, the results of the  
40 testing may be revealed. The court shall order that  
41 the cost of any medical test shall be paid by the  
42 county and may be taxed as costs against the convicted

1. defendant.

2           2. Testing of persons convicted of trafficking in  
3 or possession of hypodermic apparatuses. Whenever a  
4 defendant is convicted of an offense under Title 17-A,  
5 section 1110 or 1111, the defendant shall undergo  
6 medical testing to determine whether the defendant has  
7 been exposed to HIV or any other identified causative  
8 agent of AIDS. Except as otherwise provided by law,  
9 the results of the test shall be kept strictly  
10 confidential by all medical personnel involved in the  
11 testing and must be personally delivered in a sealed  
12 envelope to the justice or judge of the court in which  
13 the conviction was entered for the justice's or  
14 judge's inspection in camera. Acting in accordance  
15 with the best interests of the public, the justice or  
16 judge shall have the discretion to determine to whom,  
17 if anyone, the results of the testing may be  
18 revealed. The court shall order that the cost of any  
19 medical test shall be paid by the county and may be  
20 taxed as costs against the convicted defendant.

21 §19212. Notification of ambulance personnel exposed  
22 to persons diagnosed as having AIDS

23           1. Ambulance personnel exposed to AIDS. Every  
24 hospital shall send a letter of notification as  
25 required in this section to emergency medical  
26 technicians, paramedics and other ambulance personnel  
27 serving in any ambulance service licensed under Title  
28 32, chapter 2-B, who have provided or are about to  
29 provide emergency care or life support services to a  
30 patient who has been diagnosed as having AIDS or AIDS  
31 Related Complex only if the emergency medical  
32 technicians, paramedics or other ambulance personnel  
33 have indicated on the ambulance run sheet that a  
34 reasonable possibility exists that they have had blood  
35 or body fluid contact with the patient, or if hospital  
36 personnel providing the notification have reason to  
37 know of a possible exposure.

38           2. Notification letters. Notification letters  
39 shall be sent to the designated contact at the  
40 municipal or private provider agencies listed on the  
41 ambulance run sheet. The letter shall state the names

1 of crew members listed on the ambulance run sheet and  
2 the name of the communicable disease diagnosed, but  
3 shall not contain the patient's name. Upon receipt of  
4 the notification letter, the provider agency shall  
5 contact all personnel involved in the prehospital or  
6 interhospital care and transport of the patient. The  
7 notification letter may, but is not required to,  
8 consist of the following form:

9 NOTIFICATION LETTER

10 (NAME OF HOSPITAL)

11 (ADDRESS)

12 TO: (Name of Organization)

13 FROM: (Infection Control Coordinator)

14 DATE: \_\_\_\_\_

15 As required by the Maine Revised Statutes,  
16 Title 5, section 19212, (name of hospital) is  
17 hereby providing notification that the following  
18 crew members transported a patient who was later  
19 diagnosed as having AIDS (or AIDS Related  
20 Complex): (list of crew members). The Maine  
21 Revised Statutes require you to maintain this  
22 information as a confidential medical record.  
23 Disclosure of this information may therefore  
24 result in civil liability for the individual or  
25 company breaching the patient's confidentiality,  
26 or both.

27 If you have any questions regarding this  
28 patient, please contact me at (telephone number),  
29 between (hours). Questions regarding exposure or  
30 the financial aspects of obtaining medical care  
31 should be directed to your employer.

32 3. Notification of ambulance personnel upon  
33 discharge of AIDS patient. Upon discharge of a  
34 patient with AIDS or AIDS Related Complex to emergency  
35 personnel, the hospital shall notify the emergency  
36 personnel of appropriate precautions against the

1 communicable disease, but shall not identify the name  
2 of the disease.

3 4. Other measures; confidentiality. The hospital  
4 may, in its discretion, take any measures in addition  
5 to those required in this section to notify paramedics  
6 and ambulance personnel of possible exposure to any  
7 communicable disease. In all cases, this information  
8 shall be maintained as a confidential medical record.

9 5. Immunity; exception. Any person providing or  
10 failing to provide notification under this section  
11 shall have immunity from any liability, either  
12 criminal or civil, that might result by reason of that  
13 action or inaction, unless that action or inaction is  
14 willful. Nothing in this section precludes a civil  
15 action by an emergency medical technician, paramedic  
16 or other ambulance personnel against an emergency  
17 services provider agency which fails to inform the  
18 ambulance personnel in a timely fashion of the receipt  
19 of a notification letter.

20 6. Violation. Any person who willfully fails to  
21 provide any notification required pursuant to this  
22 section commits a civil violation for which a  
23 forfeiture not to exceed \$200 for the first offense,  
24 and \$500 for a 2nd or subsequent offense, may be  
25 adjudged.

26 §19213. Testing of blood drawn from blood banks or  
27 medical laboratories

28 1. Rules. The department shall promulgate rules,  
29 in accordance with the Maine Administrative Procedure  
30 Act, chapter 375, providing for the testing of blood  
31 drawn at a blood bank or medical laboratory, whether  
32 for donation or testing purposes, for evidence of  
33 exposure to HIV and any other identified causative  
34 agent of AIDS. These rules shall require the disposal  
35 of any blood showing evidence of exposure to HIV or  
36 any other identified causative agent of AIDS, unless a  
37 research facility licensed by the State requests, in  
38 writing, the use of that blood for AIDS research. Any  
39 person delivering that blood to a research facility  
40 pursuant to such a request shall file with the

1 Department of Human Services a report in a form  
2 approved by the department which must include at least  
3 the following information:

4 A. A copy of the request for blood;

5 B. The quantity of blood delivered;

6 C. The name and location of the research facility  
7 to which the blood was delivered; and

8 D. The date and time of delivery.

9 The rules shall also provide for the personal and  
10 confidential notification of the donor if the tests  
11 required by the department yield a positive result.  
12 No person incurs any civil or criminal liability for  
13 making that notification, provided that it is made in  
14 good faith and in accordance with the rules of the  
15 department.

16 2. Informed consent required. Notwithstanding  
17 section 19203-A, no blood may be withdrawn from any  
18 individual in this State for transfusion or commercial  
19 use without first:

20 A. Giving the individual written notice that the  
21 blood withdrawn will be subjected to testing for  
22 evidence of exposure to the causative agent of  
23 AIDS; and

24 B. Giving the individual an opportunity to refuse  
25 to consent to the withdrawal of blood.

26 3. Medical emergency. In a medical emergency  
27 constituting an imminent threat to the life of a  
28 potential transfusion recipient, if blood that has  
29 been subjected to the testing required under  
30 subsection 1 is not available, the testing and  
31 notification requirements of subsections 1 and 2 shall  
32 not apply.

33 §19214. Sperm banks and tissue banks

34 1. Registry. The department shall establish a

1 registry of all sperm banks and tissue banks operating  
2 in this State. All sperm banks and tissue banks  
3 operating in this State shall register with the  
4 department by May 1st of each year.

5 2. HIV testing. In addition to section 19203,  
6 subsection 4, all donors of semen for purposes of  
7 artificial insemination or donors of corneas, bones,  
8 organs or other human tissue for the purpose of  
9 injecting, transfusing or transplanting any of them in  
10 the human body shall be tested for evidence of  
11 exposure to HIV and any other identified causative  
12 agent of AIDS at the time of or after the donation,  
13 but prior to the semen, corneas, bones, organs or  
14 other human tissue being made available for such use.

15 3. Use. No person may intentionally, knowingly,  
16 recklessly or negligently use the semen, corneas,  
17 bones, organs or other human tissue of a donor who has  
18 not been tested in accordance with subsection 2 or who  
19 has tested positive for exposure to HIV or any other  
20 identified causative agent of AIDS.

21 4. Violations. The following violations apply to  
22 this section.

23 A. Any person, hospital, clinic, corporation,  
24 partnership or other legal entity which operates a  
25 sperm bank or tissue bank in this State and fails  
26 to register with the department pursuant to this  
27 section commits a civil violation for which a  
28 penalty not to exceed \$5,000 may be adjudged.

29 B. A violation of subsection 3 is a Class D crime.

30 §19215. Notification of school officials

31 1. Notification. When a child of school age has  
32 been diagnosed as having AIDS or AIDS Related Complex,  
33 or has been shown to have been exposed to HIV or any  
34 other identified causative agent of AIDS by testing  
35 positive on a Western Blot Assay or a more reliable  
36 test, and that information is reported to the  
37 Department of Human Services or a local board of  
38 health, that department shall give prompt and



1 confidential notice of the identity of the child to  
2 the superintendent of the school administrative unit  
3 in which the child resides.

4 2. Disclosure of child's identity. The  
5 superintendent may disclose the presence of an  
6 infected child, but may not disclose the identity of  
7 the child to any person other than the principal of  
8 the school the child attends, the school nurse and the  
9 classroom teachers in whose classes the child is  
10 enrolled.

11 Sec. 8. 20-A MRSA §4711, as enacted by PL 1983,  
12 c. 859, Pt. C, §§5 and 7, is amended to read:

13 §4711. Elementary course of study

14 The basic course of study for the elementary  
15 schools shall provide for the instruction of all  
16 students in the English language, including reading,  
17 writing, spelling and grammar; library instruction;  
18 mathematics; science; music, art and drama; American  
19 history and government; social studies; Maine studies,  
20 including the history, geography, culture and natural  
21 and industrial resources of the State; health, hygiene  
22 and safety; physical education; and physiology and  
23 hygiene, with special reference to the effects of  
24 substance abuse, including alcohol, tobacco and  
25 narcotics upon the human system. In addition, pupils  
26 in grades 6 to 8 shall be instructed on the  
27 prevention, transmission and spread of AIDS. No pupil  
28 may be required to take or participate in any class or  
29 course on AIDS instruction if the pupil's parent or  
30 guardian submits a written objection. A pupil's  
31 refusal to take or to participate in any class or  
32 course on AIDS shall not constitute grounds for the  
33 pupil's suspension or expulsion.

34 Sec. 9. 20-A MRSA §4723, as enacted by PL 1983,  
35 c. 859, Pt. C, §§5 and 7, is amended to read:

36 §4723. Health and physical education

37 The secondary course of study shall include  
38 instruction in health, safety and physical education,

1 as prescribed by the commissioner, and physiology and  
2 hygiene, with special reference to the effects of  
3 alcoholic drinks, stimulants and narcotics upon the  
4 human system. In addition, pupils in grades 9 to 12  
5 shall be instructed on the prevention, transmission  
6 and spread of AIDS. No pupil may be required to take  
7 or participate in any class or course on AIDS  
8 instruction if the pupil's parent or guardian submits  
9 a written objection. A pupil's refusal to take or to  
10 participate in any class or course on AIDS shall not  
11 constitute grounds for the pupil's suspension or  
12 expulsion.

13 Sec. 10. 34-A MRSA §3037, sub-§3 is enacted to  
14 read:

15 3. AIDS testing; rules. Upon taking custody of a  
16 committed person, the Department of Corrections shall  
17 provide for the testing of the committed person for  
18 infection with the human immunodeficiency virus, HIV,  
19 and any other identified causative agent of Acquired  
20 Immune Deficiency Syndrome, AIDS. The testing shall  
21 also be provided for committed persons as part of any  
22 program of regular medical checkups provided by the  
23 department. The testing to be provided under this  
24 subsection shall consist of an enzyme-linked  
25 immunosorbent assay test, or any other test as may be  
26 approved by the Department of Human Services. In the  
27 event of a positive result, the Western Blot Assay or  
28 a more reliable confirmatory test shall be  
29 administered. Notwithstanding section 3003, no person  
30 may disclose the results of a test under this  
31 subsection, except as provided in Title 5, section  
32 19203. The commissioner shall promulgate rules, in  
33 accordance with the Maine Administrative Procedure  
34 Act, Title 5, chapter 375, setting forth the  
35 consequences of a positive result on a Western Blot  
36 Assay or more confirmatory test.

37 Sec. 11. 34-A MRSA §3047-A is enacted to read:

38 §3047-A. AIDS testing prior to release or discharge

39 No later than 60 days prior to the release or  
40 discharge of a person pursuant to Title 17-A, section

1 1254, the Department of Corrections shall cause that  
2 person to be subjected to testing to determine whether  
3 the person has been exposed to the human  
4 immunodeficiency virus, HIV, or any other identified  
5 causative agent of Acquired Immune Deficiency  
6 Syndrome, AIDS. The test shall consist of an  
7 enzyme-linked immunosorbent assay test to determine  
8 the presence of antibodies to HIV, or such other test  
9 as may be approved by the Department of Human  
10 Services. In the event of a positive result, the  
11 Western Blot Assay or a more reliable confirmatory  
12 test shall also be administered. The Department of  
13 Corrections shall report positive HIV test reports to  
14 the Department of Human Services. If the test result  
15 is positive for exposure, the person shall be  
16 confidentially notified of that fact and the  
17 Department of Human Services shall provide the person  
18 with coordination of services and counseling, as  
19 appropriate, in accordance with Title 5, chapter 501.

20 STATEMENT OF FACT

21 This bill establishes procedures for the control  
22 of AIDS, including the establishment of contact  
23 tracing and anonymous contact referral programs by the  
24 Department of Human Services, in order to notify all  
25 persons who are likely to have been exposed to AIDS,  
26 inform them of their risk of exposure, advise them on  
27 the availability of testing, provide them with  
28 information about AIDS and offer referrals for  
29 counseling or treatment when appropriate. Any  
30 information gathered by the department and the  
31 identity of all persons notified shall be held  
32 confidential.

33 This bill also establishes the testing for  
34 exposure to AIDS of persons convicted of certain drug  
35 or sex crimes and persons committed to the custody of  
36 the Department of Corrections or who are about to be  
37 released or discharged from the department's custody.  
38 The bill further requires health care workers who have  
39 been diagnosed as having AIDS to notify their employer  
40 of that fact in writing, and for the employers of

1 health care workers to take steps to protect patients  
2 from possible infection. In addition, the bill  
3 requires hospitals to notify emergency medical  
4 technicians, paramedics or any other ambulance  
5 personnel of their exposure to AIDS when hospital  
6 personnel have reason to know of a possible exposure.  
7 The bill also requires that pupils in grades 6 to 12  
8 be instructed on the prevention, transmission and  
9 spread of AIDS unless the pupil's parent or guardian  
10 submits a written objection. This bill also increases  
11 the number of persons to whom the results of a test  
12 for AIDS may be released.

13 This bill also provides that all blood drawn at a  
14 blood bank or clinical laboratory, whether for  
15 donation or testing purposes, be subject to certain  
16 rules including testing for HIV. The bill further  
17 provides that all donors to sperm or tissue banks be  
18 tested for exposure to HIV or any other identified  
19 causative agent of AIDS.

20 Finally, this bill requires the Department of  
21 Human Services to notify the appropriate school  
22 official of any student who has tested positive for  
23 the AIDS virus.

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