

/\* OKLAHOMA has passed laws for education, testing, and counseling; disease prevention and control; blood and organ donation testing; and testing inmates and prostitutes. \*/

1031. Punishment for violations -- Knowingly engaging in prostitution while infected with HIV

A. Any person violating any of the provisions of Sections 1028, 1029 or 1030 of this title shall be guilty of a misdemeanor and, upon conviction, shall be imprisoned in the county jail for not less than thirty (30) days nor more than one (1) year; and the court in which any such conviction is had shall notify the county superintendent of public health of such conviction.

B. Any person who engages in an act of prostitution with knowledge that they are infected with the human immunodeficiency virus shall be guilty of a felony punishable by imprisonment in the custody of the Department of Corrections for not more than five (5) years.

1192.1. Knowingly engaging in conduct reasonably likely to transfer HIV virus -- Penalties

A. It shall be unlawful for any person knowing that he or she has Acquired Immune Deficiency Syndrome (AIDS) or is a carrier of the human immunodeficiency virus (HIV) and with intent to infect another, to engage in conduct reasonably likely to result in the transfer of the person's own blood, bodily fluids containing visible blood, semen, or vaginal secretions into the bloodstream of another, or through the skin or other membranes of another person, except during in utero transmission of blood or bodily fluids, and:

1. the other person did not consent to the transfer of blood, bodily fluids containing blood, semen, or vaginal secretions; or

2. the other person consented to the transfer but at the time of giving consent had not been informed by the person that the person transferring such blood or fluids had AIDS or was a carrier of HIV.

B. Any person convicted of violating the provisions of this section shall be guilty of a felony, punishable by imprisonment in the custody of the Department of Corrections for not more than five (5) years.

3-425.1. HIV education, testing and counseling services. Every approved treatment facility in this state shall:

1. provide Human Immunodeficiency Virus (H.I.V.) infection education sessions to drug-dependent persons in such facility and shall make said education sessions available to the spouses or other sexual partners of such persons as part of its treatment

program for drug-dependent persons; and

2. refer all drug-dependent persons in its program for Human Immunodeficiency Virus (H.I.V.) infection testing and counseling. The treatment facility shall provide assistance as necessary to enable drug-dependent persons in its program to receive said testing and counseling services and may enter into a contract with a public or private organization for the provision of testing or counseling services at the treatment facility site. The results of individual tests shall be maintained in a confidential manner as required by state and federal law.

51.1. Persons with Acquired Immune Deficiency Syndrome (AIDS) -- Violation of 1192.1 of title 21-Transfer to Department of Corrections for extended medical care

Any person who has the Acquired Immune Deficiency Syndrome (AIDS) disease who is confined in the county jail in violation of Section 1192.1 of Title 21 of the Oklahoma Statutes, whether convicted or pending trial, may be transferred to the Department of Corrections for extended medical care for the duration of the sentence imposed or pending trial. At the request of the medical officer, physician or surgeon employed by said jail, the county sheriff shall make application to the Department of Corrections for a transfer of the person and the Department of Corrections may accept the person under the following conditions:

1. The person's right to a speedy trial is not delayed by the transfer to a state facility;
2. The person's right to confer with legal counsel is not restricted by the transfer to a state facility;
3. The county agrees to a mutual exchange of inmates from the Department of Corrections for the medical care and custody of the person to be transferred;
4. The medical care or custody of the person is necessary to preserve the health and safety of the public, the inmates of the county jail or the person being transferred;
5. The person to be transferred may be adequately treated in the state facility; and
6. The state facility has medical bed space available for the person.

396.27. Notifying employees of risk exposure to communicable diseases - Universal precautions

A. Each funeral director shall notify employees concerning risk exposures pursuant to Section 1 of this act and the rules and guidelines promulgated by the State Board of Health.

B. Each funeral director and each employee of such funeral director shall adhere to the universal precautions for the prevention of the transmission of communicable diseases published by the Centers for Disease Control, U.S. Public Health Service,

in the Morbidity and Mortality Weekly Report, Volume 36, Number 2S or as subsequently amended, during the handling of any body.

1-502.1. Communicable diseases -- Universal precautions -- rules and regulations -- Risk exposure

A. All agencies and organizations that regularly employ emergency medical technicians, paramedics, fire fighters, peace officers, as defined in Section 648 of Title 21 of the Oklahoma Statutes, correctional officers and employees, or health care workers, all mental health or mentally retarded treatment or evaluation programs that employ persons involved with providing care for patients, the J.D. McCarty Center for Children with Developmental Disabilities, and all juvenile institutions of the Department of Human Services shall implement the universal precautions for the prevention of the transmission, of communicable diseases published by the Centers for Disease Control, U.S. Public Health Service, in the Morbidity and Mortality Weekly Report, Volume 36, Number 25 or as subsequently amended.

B. The State Board of Health shall promulgate rules and guidelines that will implement a system of notification of emergency medical technicians, paramedics, fire fighters, health care workers, funeral directors and peace officers relating to risk exposures during health care activities, emergency response activities or funeral preparations. Risk exposure shall be defined by the State Board of Health to be exposure that is epidemiologically demonstrated to have the potential for transmitting a communicable disease.

C. The Mental Health Board, Commission for Human Services, Oklahoma Cerebral Palsy Commission, and State Board of Corrections shall each promulgate rules, guidelines or policies to provide for such notification of risk exposures to persons employed by such agencies.

1-502.2. Certain information to be confidential -- Circumstances under which release permissible -- Written consent defined -- Multidisciplinary advisory committee on HIV/HIB-infected health care workers -- Wrongful disclosure of certain information

A. Unless otherwise provided by law, all information and records which identify any person who has or may have any communicable or venereal disease which is required to be reported pursuant to Sections 1-501 through 1-532.1 of this title and which are held or maintained by any state agency, health care provider or facility, physician, health professional, laboratory, clinic, blood bank, funeral director, third party payor, or any other agency, person, or organization in the state shall be confidential. Any information authorized to be released pursuant

to paragraphs 1 through 7 of this subsection shall be released in such a way that no person can be identified unless otherwise provided for in such paragraph or by law. Such information shall not be released except under the following circumstances:

1. Release is made upon court order;
2. Release is made in writing, by or with the written consent of the person whose information is being kept confidential or with the written consent of the legal guardian or legal custodian of such person, or if such person is a minor, with the written consent of the parent or legal guardian of such minor;
3. Release is necessary as determined by the State Department of Health to protect the health and well-being of the general public. Any such order for release by the Department and any review of such order shall be in accordance with the procedures specified in Sections 309 through 323 of Title 75 of the Oklahoma Statutes. Only the initials of the person whose information is being kept confidential shall be on public record for such proceedings unless the order by the Department specifies the release of the name of such person and such order is not appealed by such person or such order is upheld by the reviewing court;
4. Release is made of medical or epidemiological information to those persons who have had risk exposures pursuant to Section 1-502.1 of this title;
5. Release is made of medical or epidemiological information to health professionals, appropriate state agencies, or district courts to enforce the provisions of Sections 1-501 through 1-532.1 of this title and related rules and regulations concerning the control and treatment of communicable or venereal diseases;
6. Release is made of specific medical or epidemiological information for statistical purposes in such a way that no person can be identified; or
7. Release is made of medical information among health care providers, their agents or employees, within the continuum of care for the purpose of diagnosis and treatment of the person whose information is released. This exception shall not authorize the release of confidential information by a state agency to a health care provider unless such release is otherwise authorized by this section.

B. For the purposes of this section only, the words "written consent" shall mean that the person whose information is required to be kept confidential by this section or the person legally authorized to consent to release by this section has been informed of all persons or organizations to whom such information may be released or disclosed by the specific release granted. Releases granted pursuant to paragraph 2 of subsection A of this section shall include a notice in bold typeface that the information authorized for release may include records which may

indicate the presence of a communicable or venereal disease which may include, but are not limited to, diseases such as hepatitis, syphilis, gonorrhea and the human immunodeficiency virus, also known as Acquired Immune Deficiency Syndrome (AIDS). Consent obtained for release of information, pursuant to paragraph 2 of subsection A of this section, shall not be considered valid unless prior to consent, the person consenting to the release was given notice of the provisions for release of confidential information pursuant to this section.

C. 1. The State Department of Health may convene a confidential meeting of a multidisciplinary team for recommendation on school placement of a student who is infected with the human immunodeficiency virus. The multidisciplinary team shall include, but not be limited to the following:

- a. the parent, parents, legal representative, or legal guardian or legal custodian of the student;
- b. the physician of the student;
- c. a representative from the superintendent's office of the affected school district;
- d. a representative from the State Department of Education; and
- e. a representative from the State Department of Health.

Each member of the team shall be responsible for protecting the confidentiality of the student and any information made available to such person as a member of the team. The multidisciplinary team shall be exempt from the requirements of Sections 301 through 314 of Title 25 of the Oklahoma Statutes and Sections 24A.1 through 24A.19 of Title 51 of the Oklahoma Statutes.

2. Each member of the local school board having jurisdiction over the student shall also be responsible for protecting the confidentiality of the student and any information made available to such person as a school board member.

D. The State Department of Health may convene a confidential meeting of a multidisciplinary advisory committee to make recommendations regarding the practice of health care workers who are infected with the human immunodeficiency virus (HIV) or hepatitis B (HBV), who may be performing exposure-prone procedures. The membership of the multidisciplinary advisory committee shall include, but not be limited to, the following:

1. The Commissioner of Health or her designee;
2. Legal counsel to the Commissioner of Health;
3. The state epidemiologist or his designee;
4. An infectious disease specialist with expertise in HIV/HBV infection; and
5. Two practicing health care workers from the same discipline as the HIV/HBV-infected health care worker.

In addition, the health care worker being discussed, and/or an

advocate, and the personal physician of the health care worker being discussed shall be invited to the multidisciplinary advisory committee meeting. Discussion of the case shall be made without using the actual name of the health care worker. Each member of the multidisciplinary advisory committee shall be responsible for protecting the confidentiality of the HIV/HBV-infected health care worker and the confidentiality of any information made available to such person as a member of the multidisciplinary advisory committee. The multidisciplinary advisory committee shall be exempt from the requirements of the Open Meetings Act, Section 301 et seq. of Title 25 of the Oklahoma Statutes, and the Open Records Act, Section 24A.1 et seq. of Title 51 of the Oklahoma Statutes.

E. Upon advice of the multidisciplinary advisory committee, the Commissioner of Health, or her designee, may notify an appropriate official at the health care facility where the HIV/HBV-infected health care worker practices that said health care worker is seropositive for HIV and/or HBV. Notification shall be made only when necessary to monitor the ability of the HIV/HBV-infected health care worker to comply with universal precautions and appropriate infection control practices, and/or to monitor the ongoing functional capacity of the health care worker to perform his or her duties. Notification shall occur through one of the following officials:

1. The facility administrator;
2. The hospital epidemiologist;
3. The chairman of the infection control committee of the facility; or
4. The medical chief of staff of the facility.

F. If the HIV/HBV-infected health care worker fails or refuses to comply with the recommendations of the multidisciplinary advisory committee, the Commissioner of Health, or her designee, may take such actions as may be required to perform the duties imposed by the laws of the State of Oklahoma, and may advise the appropriate licensing board.

G. Any person who negligently, knowingly or intentionally discloses or fails to protect medical or epidemiological information classified as confidential pursuant to this section, upon conviction, shall be guilty of a misdemeanor punishable by the imposition of a fine of not less than One Thousand Dollars (\$1,000.00) or by imprisonment in the county jail for not more than thirty (30) days, or by both such fine and imprisonment

H. Any person who negligently, knowingly or intentionally discloses or fails to protect medical or epidemiological information classified as confidential pursuant to this section shall be civilly liable to the person who is the subject of the disclosure for court costs, attorneys fees, exemplary damages and

all actual damages, including damages for economic, bodily or psychological harm which is proximately caused by the disclosure.

1-502.3. Persons withdrawing or testing blood for human immunodeficiency virus (HIV) -- Civil and criminal liability -- Definitions

A. No person who withdraws or tests blood for human immunodeficiency virus or employer of such person for any hospital or health care facility where blood is withdrawn or tested for human immunodeficiency virus shall incur any civil or criminal liability as a result of the proper withdrawal of blood or testing for human immunodeficiency virus when acting in compliance with the provisions of this section. The withdrawal or testing shall be performed in a reasonable manner, according to generally accepted clinical practice. The person, employer or facility shall be presented with:

1. A written statement by the person whose blood is to be withdrawn and tested; or
2. A written statement from a health care or emergency care worker verifying that the health care or emergency care worker in an occupational setting has been exposed to the bodily fluids of the person whose blood is to be withdrawn and tested, which exposure placed the health care or emergency care worker at risk for transfer of the bodily fluids; or
3. An order from a court of competent jurisdiction that blood be withdrawn and tested.

When presented with such a statement or court order, the person authorized to withdraw the blood, the employer and the hospital or other health care facility where the withdrawal or testing occurs may rely on such statement or order as evidence that the person has consented to or has been required to submit to the clinical procedure and shall not be required to obtain any additional consent, acknowledgment or waiver form. In such case, the person authorized to perform the procedure, the employer of such person, and the hospital or other health care facility shall not be liable in any action alleging lack of consent or lack of informed consent.

B. No person specified in this section shall incur any civil or criminal liability for:

1. Providing results of the testing to:
  - a. the person whose blood was tested,
  - b. the person incurring the exposure, or
  - c. the State Department of Health or such agency it may designate;
2. Not providing the results of the testing to any other person; or
3. Failing to diagnose or falsely diagnosing the presence of

the human immunodeficiency virus where the procedure was performed in a reasonable manner according to generally accepted clinical practice.

C. For the purposes of this section:

1. "Bodily fluids" means fluids which have been medically proven and medically accepted as transmitters or conductors of human immunodeficiency virus; and
2. "Health care worker" or "emergency care worker" means one of the persons specified in subsection A of Section 1-502.1 of this title.

1-523. Institutions----Treatment of infected inmates  
Any and all institutions in this state, whether penal or eleemosynary, and whether public or private, and free or for pay, shall make, and preserve for a period of at least one (1) year, a record showing the name, age, sex, color, nationality and place of residence of all infected persons of the inmates of such institution that may come to their knowledge, and shall submit such record at all reasonable hours to the inspection of the Commissioner of Health or local health officer. All such institutions shall furnish a physician and all proper medicines, instruments and apparatus for the proper treatment of such infected persons. Each institution shall notify their correctional officers when an inmate is infected with the human immunodeficiency virus (HIV) or has the Acquired Immune Deficiency Syndrome (AIDS) disease.

1-524. Prisoners---Examinations---Treatment---Quarantine---  
Testing certain persons for venereal disease or human immunodeficiency virus

- A. The keeper of any prison or penal institution in this state shall cause to be examined every person confined in such prison or penal institution, to determine whether such person is an infected person.
- B. Any licensed physicians may examine persons who are arrested by lawful warrant for prostitution, or other sex crimes not specified in subsection C of this section, for the purpose of determining if they are infected with a venereal disease or a communicable disease including, but not limited to, the human immunodeficiency virus (HIV). Any such examination shall be made subsequent to arrest and if the examination is for the human immunodeficiency virus, upon order of the court issued at the arraignment of the arrested person. Every person shall submit to the examination and shall permit specimens to be taken for laboratory examinations. Such person may be detained until the results of the examination are known. The examination shall be made by a licensed physician. A determination as to whether or

not the person is infected shall not be based on any prior examination. Any person found to be infected with a venereal disease shall be treated by the Commissioner or local health officer, or a physician of such person's own choice, until such person is noninfectious or dismissed by the Commissioner or local health officer or physician. In the event a person infected with a venereal disease refuses or fails to submit to treatment, then such person may be quarantined for the purpose of treatment, and a report thereof shall be made to the State Commissioner of Health.

C. A licensed physician shall examine persons who are arrested by lawful warrant for the offense of first or second degree rape, forcible sodomy or the intentional infection or attempt to intentionally infect a person with the human immunodeficiency virus pursuant to Section 1192.1 of Title 21 of the Oklahoma Statutes, for the purpose of determining if they are infected with a venereal disease or a communicable disease including, but not limited to, the human immunodeficiency virus (HIV). The court shall issue an order for this examination upon the arraignment of the person arrested for any of the offenses specified in this subsection. The order requiring such test shall not include the name and address of the alleged victim but shall provide that the alleged victim shall be notified of the test results.

#### 1-525. Prescriptions and records----Exposure

A. Except as otherwise provided by law, the prescription and records required by the foregoing provisions to be filed and kept shall not be exposed to any person other than the State Commissioner of Health or local health officer, or when properly ordered by a court of competent jurisdiction to be used as evidence in such court, and no information whatever shall be given to any person concerning any infected person except to appropriate persons for use in the proper courts of this state. Provided, that records of diagnosis and treatment may be transmitted to physicians and to health authorities in this and other states upon written request of the person affected. Provided further, results of examinations conducted on persons arrested by lawful warrant for the offense of first or second degree rape, forcible sodomy, or intentional infection or attempted infection of a person with the human immunodeficiency virus, shall be provided to the alleged victim of the crime upon the request of the victim, the parent of the victim if the victim is a minor, or upon request of the legal guardian or custodian of the victim. The name of the arrested and examined person shall not be disclosed on the transmitted record. The State Department of Health shall provide to the victims the positive test results.

The Department shall provide free testing to the alleged victim for any venereal or communicable disease for which the arrestee tests positive, as indicated in the transmitted record of diagnosis. Such testing shall be accompanied with pretest and post-test counseling. Such counseling shall include the provision of information to the victim or the parent, legal guardian or custodian of the victim concerning the venereal or communicable disease indicated in the transmitted record and the location of public and private facilities in the vicinity offering tests and counseling for persons who have the venereal or communicable disease.

B. The State Board of Health shall promulgate rules and regulations for the examination authorized or required by Section 1-524 of this title and for the release of records containing results of examinations authorized by subsection A of this section. The rules and regulations shall establish procedural guidelines which respect the rights of the person arrested for the alleged offense and the victim of the alleged offense.

2151.1. Donation of sperm, tissue or organ from persons testing positive to human immunodeficiency virus prohibited  
No human sperm, tissue or organ shall be procured for donation purposes from any person testing positive for the human immunodeficiency virus infection.

1. Every donor, donor candidate or tissue or organ to be donated shall be tested for said virus infection immediately prior to the donation of sperm, or tissues or organs for transplant. If such test has not been conducted immediately prior to the donation, then the test shall be conducted immediately prior to the implantation of the donor organ or tissue.

2. If the donor is living, the donor shall be notified of the test results. Notification shall be consistent with donor confidentiality and with the requirements of state and federal law. The hospital or other facility responsible for the sperm, tissue or organ donation shall provide directly or otherwise make available appropriate information and counseling services to sperm donors and to living tissue or organ donors.

2153. Preplacement or replacement of blood as a condition of treatment

No hospital or blood donor organization shall require either preplacement or replacement of blood as a condition of treatment. Every statement of policy to or request of a patient or his next of kin by a physician or the personnel of a hospital or a blood donor organization regarding preplacement or replacement of blood through voluntary donations on behalf of the patient pursuant to any scheduled transfusion of whole blood or one or more of the

component parts of whole blood, shall be made in a manner not calculated or likely to result in a marked increase in anxiety or emotional disturbance on the part of the patient or his next of kin. Every blood donor organization shall adopt policies and procedures for directed blood donations. Such designated donations must be medically suitable of purpose, safety, and acceptability to the body of the recipient. Any hospital or blood donor organization that violates the provisions of this section may be denied all benefits and privileges granted by state law to such institutions.

#### BLOOD EXCHANGE ACT

##### 2163. Definitions

As used in this act:

"Blood service systems" means regional providers of whole blood, blood components or blood derivatives; provided, for purposes of this act, all regional providers operating with the same establishment license number of the United States Department of Health and Human Services will be considered one blood service system. For purposes of this act, blood service systems shall not include individual hospital blood banks.

##### 2167. Blood solicitation and donation

A. It shall be the intent of the Legislature that each blood service system operating in this state use only blood and blood products obtained from volunteer donors, except in an emergency calling for a rare blood type that is not available from a nonpaid donor or in an unusual disaster situation when normal supply is interrupted or depleted. Blood collected from inmates in correctional facilities shall not be used to transfuse patients in this state.

B. Blood solicitation or donation as a prerequisite for surgical or medical reasons is hereby prohibited.

C. Every blood donor organization shall adopt policies and procedures for directed blood donations. Such designated donations must be medically suitable of purpose, safety, and acceptability to the body of the recipient.

D. Appeals for blood donations should be directed at the community at large, including organized groups within the community. While appeals to the family and friends of the hospitalized patients are an acceptable part of total donor recruitment program, blood service establishments should exercise discretion in such appeals and should carefully avoid the use of any undue pressure or coercion.

##### 2167.1. Test for detection of antibodies to human T-lymphotropic virus type III-Notification of donors

Each blood service system shall have a test to detect the presence of antibodies to the human T-lymphotropic virus type III. Such test shall be performed on each donation of blood prior to the use, disposal, distribution, or exchange of such blood. If antibodies to the human T-lymphotropic virus type III are found to be present in such blood donation, the blood shall not be used for any blood transfusion. The donor of any blood donation containing antibodies to the human T-lymphotropic virus type III shall be notified of such results upon completion of specific confirmatory testing by the blood service system that took the donation. The notification shall be made in a manner consistent with donor confidentiality.

2168. Statement of benefits arising from donation of blood-Donor forms-Unlawful representations

- A. Every blood service system shall furnish a blood donor, preceding or at the time of a blood donation, a concise, complete, written statement as to any benefit which may arise from the donation of blood. This statement shall include, at least, the system policy regarding blood replacement, benefits, if any, for blood program participation and designation of who shall be the recipient of any such benefits.
- B. Every blood service system shall provide a form to the donor to be filled in by the donor, preceding or at the time of the blood donation. The form shall provide for the name, address, or location where the donor may be located for notification pursuant to Section 3 of this act.
- C. It shall be unlawful for any blood service system, or its agent or employee, to make any representation, oral or written, that a donation of blood will or may result in benefits to the blood donor or his designee, such as the refund of any fees, blood credits, family protection and the like, unless such benefits will, in fact, accrue to the blood donor or his designee.
- D. It shall be unlawful for any blood service system, or its agent or employee, to make any representation, oral or written, that blood or blood products are or will be provided free if such blood service system receives any fee or remuneration, whether directly or indirectly, for providing and/or transfusing blood or blood products.