

/* RHODE ISLAND laws address real estate disclosure; premarital, prenatal and donor testing; confidentiality and disclosure; discrimination; insurance; and testing inmates and drug abusers.

5-20.8-6. Disclosure of psychologically impacted property.

(A) The fact or suspicion that real property may be or is psychologically impacted shall not be a material fact requiring disclosure in any real estate transaction. "Psychologically impacted" shall mean an impact being the result of facts or suspicions including but not limited to the following:

(1) That an occupant of real property is now or has been suspected to be infected or is infected or has been infected with Human Immunodeficiency Virus or diagnosed with Acquired Immune Deficiency Syndrome, or any other disease which has been determined by medical evidence to be highly unlikely to be transmitted through the occupying of a dwelling place; or

(2) That the real property was or has been, at any time, suspected of being the site of a homicide, other felony or suicide.

(13) No cause of action shall arise against the seller of the real property or his or her agent for failure to disclose to the buyer that said real property was psychologically impacted as defined in this chapter.

However, under no circumstances, shall this provision be interpreted as or used as authorization for an agent or seller to make any misrepresentation of fact or false statement.

5-20.8-7. Public agency notification. - Any information required to be disclosed by this section to a prospective buyer by a public agency shall be deemed to comply with the requirements of this section and shall relieve the seller or agent of any further duty under this section with respect to that item of information.

11-34-10. Human Immunodeficiency Virus (HIV). - Any person convicted of a violation of any provisions of chapter 34 of this title shall be required to be tested for human immunodeficiency virus (HIV). No consent for such testing shall be required.

The department of health shall be responsible for reasonable costs associated with performing and reporting the results of the HIV tests, including the costs of pretest and post-test counseling.

All persons tested under this section shall be provided pretest and post-test

counseling in accordance with regulations adopted by the department of health; provided, however, that said counseling shall be in accordance with acceptable medical standards.

All persons who are tested under this section, who are determined to be intravenous drug abusers, shall be referred to appropriate sources of drug treatment by the department of health as follows:

(a) Such persons who test positive for HIV infection shall be given priority for those outpatient treatment programs which are sponsored or supported by the department of health and department of mental health, retardation and hospitals;

(b) Such persons who test negative for HIV infection shall be referred to the appropriate division in the department of mental health, retardation, and hospitals, for earliest possible evaluation and treatment.

15-2-3. Physical examination and blood test required. - Except as otherwise provided in 15-2-10 no license shall be issued by a town or city clerk until there shall be in the possession of the town or city clerk a statement or statements, upon a form provided by the department of health, signed by a licensed physician, that each applicant has submitted to a physical examination, a Wasserman or Kahn or other similar standard laboratory blood test and that, in the opinion of the physician, the person is not infected with syphilis or gonorrhoea in any stages of these diseases in which they may become communicable. These statements shall be accompanied by a record of the standard laboratory blood tests, which record shall contain the exact name and address of the applicant. All female applicants shall complete a rubella test approved by the department of health prior to the issuance of a license. The rubella test shall not be required of women fifty-five (55) years, or older, those previously immunized or tested as evidenced by a physician's certificate, and those unable to bear children or whose pregnancy at the time of application is certified by a physician. A standard laboratory blood test shall be a laboratory test for syphilis approved by the department of health and shall be performed by the department, on request of a licensed physician and upon payment of a reasonable charge therefor, or at a laboratory approved by it, the test to be made not more than forty (40) days before the issuance of the marriage license. The physician or health care provider shall offer testing for human immunodeficiency virus (HIV). All testing pursuant to this section shall be performed in accordance with 23-6-17 and 23-6-18. The identity of the individuals tested under this section shall be maintained only at the site where the sample is drawn, and shall not be released except as otherwise provided by statute.

Each person who is offered such a test and counseling shall be provided with

an "AIDS Testing and Notification Form" which he or she shall sign and date in acknowledgment of said offer.

The department of health shall be responsible for reasonable costs associated with performing and reporting the results of the HIV tests. The department of health will provide pretest and post-test educational materials and provide post-test counseling for HIV positive persons.

All persons tested under this section shall be provided pretest and post-test counseling in accordance with regulations adopted by the department of health; provided, however, that said counseling shall be in accordance with acceptable medical standards.

21-28-4.20. Human immunodeficiency virus (HIV) - Testing. - (a) Any person convicted of possession of any hypodermic instrument associated with intravenous drug use shall be required to be tested for human immunodeficiency virus (HIV), No consent for such testing shall be required.

(b) The department of health shall be responsible for reasonable costs associated with performing and reporting the results of the HIV tests, including the costs of pretest and post-test counseling.

(c) All persons tested under this section shall be provided pretest and post-test counseling in accordance with regulations adopted by the department of health; provided, however, that this counseling shall be in accordance with acceptable medical standards.

(d) All persons who are tested under this section, who are determined to be intravenous drug abusers, shall be referred to appropriate sources of drug treatment by the department of health as follows:

(1) Such persons who test positive for HIV infection shall be given priority for those outpatient treatment programs which are sponsored or supported by the department of health and the department of mental health, retardation and hospitals;

23-1-38. HIV antibody testing - Sperm collection or donation. - The director shall promulgate guidelines for the prevention of transmission of HIV, and, particularly, in those instances of sperm collection or donation where the director shall require specific testing therefor.

23-1-39. Tattooing. - (a) The director shall promulgate rules and regulations which provide minimum requirements to be met by any person performing

tattooing upon any individual and for any establishment where tattooing is performed. These requirements shall include, but not be limited to, general sanitation of premises wherein tattooing is to be performed and sterilization of instruments. These rules and regulations shall place emphasis on the prevention of disease, specifically including, but not limited to, transmission of hepatitis B and/or human immunodeficiency virus (HIV).

(b) In addition, these rules and regulations shall establish procedures for registration with the department of health of all persons performing tattooing, for registration of any establishment where tattooing is performed, for regular inspections of premises wherein tattooing is performed, and for revocation of the registration of any person or establishment deemed in violation of the rules and regulations promulgated under this section. An annual registration fee in the amount of fifty dollars (\$50.00) shall be paid by any person or establishment registered under this section.

23-6-10. Purpose. - The purpose of 23-6-10 through 23-6-24 is to protect the public against transmission of the AIDS virus, and to protect persons who are infected with the AIDS virus from discrimination.

23-6-11. Definitions. - As used in 23-6-10 through 23-6-24:

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

(2) "AIDS test" means any currently medically accepted diagnostic test for determining infection of an individual by the AIDS virus (HIV).

(3) "Person" means any individual, firm, partnership, corporation, company, association, or joint stock association.

(4) "Physician" means a person licensed to practice allopathic or osteopathic medicine pursuant to the provisions of chapter 37 of title 5.

(5) "Services" means health care and social support services.

(6) "Exposure evaluation group" means three (3) impartial health care providers designated to determine if a health care provider has been involved in a significant exposure. No member of the group shall be directly involved in the exposure.

(i) For inpatient services in a licensed health care facility hospital setting the group shall consist of the patient's attending physician or designee, the chief of service or designee and a staff nurse. For other non-inpatient

exposures in a licensed health care facility, the third member of the exposure evaluation group shall be a representative from the employee health office. If the exposure involves the attending physician, another physician shall be designated by the chief of service.

(ii) In any other licensed health care facility or in a private office of a physician the group shall consist of three (3) physicians.

(7) "AIDS testing and notification form" means a standardized form provided by the Rhode Island department of health. The form shall be developed by the department and shall contain the following information:

(i) The public health rationale for AIDS testing;

(ii) The availability and cost of AIDS testing and counseling;

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

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

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

(vi) That by signing this form the person is only acknowledging that the AIDS test and counseling have been offered.

23-6-12. Testing - Requirement for informed consent. -Unless otherwise excepted by the provisions of this chapter, no person may be tested for presence of the AIDS virus, where the test result can be identified with a specific individual, unless he or she has given his or her informed consent by his or her signature or that of a parent, guardian, or agent on a written informed consent form

specifically relating to such test after discussion of implications of the test with a qualified professional.

23-6-13. Informed consent form. - The written informed consent form shall include at least the following: (a) the name and signature of the party(s) seeking and consenting to the AIDS test, (b) the name and nature of the test, (c) the reasons for conducting the test, (d) the fact that the test results shall remain confidential except as required by law, and (e) explanation of how test results will affect the tested person's ability to obtain services from the party requesting the test, or those for whom he or she is acting.

23-6-14. Exceptions. - Notwithstanding the provisions of 23-6-12 and 23-6-13, a physician may or other health care provider may draw blood and secure a test for the presence of the AIDS virus without informed consent under the following conditions:

- (a) When the person to be tested is under one year of age;
- (b) When the person to be tested is between one and thirteen (13) years of age and appears to be symptomatic for AIDS;
- (c) When the person to be tested is a minor under the care and authority of the Rhode Island department of children and their families, and the director of that department certifies that an AIDS test is necessary to secure health or human services for that person;
- (d) When a person (the complainant) can document significant exposure to blood or other bodily fluids of another person (the individual to be tested), during performance of the complainant's occupation, providing:
 - (i) The complainant completes an incident report within forty-eight (48) hours of the exposure, identifying the parties to the exposure, witnesses, time, place and nature of the event;
 - (ii) The complainant submits to a baseline AIDS test and is negative on that test for the presence of the AIDS virus, within seventy-two (72) hours of the exposure; and
 - (iii) There has been a significant percutaneous or mucus membrane exposure, i.e., needlestick; bite; splash over open wound, broken skin, or mucus membrane; by blood or bodily fluids of the person to be tested; of a type and in sufficient concentration to permit transmission of the AIDS virus, if present in those fluids.
- (e) In a licensed health care facility or in the private office of a physician in

the event that an exposure evaluation group, as defined above, determines that a health care provider has a significant exposure to the blood and/or body fluids of a patient and the patient or the patient's guardian refuses to grant informed consent for an HIV test to determine whether the patient has the AIDS virus, then, if a sample of the patient's blood is available, that blood shall be tested for the AIDS virus:

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

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

(iii) No member of the exposure evaluation group who determines that a health care worker has sustained a significant exposure and authorizes the HIV testing of a patient nor any person or health care facility who relies, in good faith, on the group's determination and performs the test shall have any liability as a result of their actions carried out under this chapter, unless those persons act in bad faith.

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

(g) As permitted under 23-18.5-8 and 23-1-38.

(h) Mandatory testing for human immunodeficiency virus (HIV) conducted pursuant to 42-56-37, 11-34-10 and 21-28-4.18.

23-6-15. Reasonable effort to secure consent. - No involuntary testing for the AIDS virus shall take place under any of the exceptions set forth in 23-6-14 until reasonable efforts have been made to secure voluntary informed consent.

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

23-6-17. Confidentiality - Disclosure of test results. - It shall be unlawful

for any person to disclose to a third party the results Of an individual's AIDS test without the prior written consent of that individual, or in the case of a minor, the minor's parent, guardian, or agent on a form that specifically states that HIV test results may be released, except:

(a) A licensed health care facility or laboratory may report test results to a licensed physician, or other authorized medical personnel who requested the test(s) and shall, pursuant to rules and regulations, report to the director of the department of health.

(b) A physician:

(i) May enter AIDS test results in' the medical record, as would be the case with any other diagnostic test;

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

(iii) May notify persons exposed to blood or other body fluids of an individual who tests positive for AIDS, pursuant to 23-6-14(d) through (h) above and 23-17-31

(iv) May notify the director of the department for children and their families, pursuant to 23-6-14(c); and

(v) May inform third-parties with whom an AIDS-infected patient is in close and continuous contact, including but not limited to a spouse; if the nature of the contact, in the physician's opinion, poses a clear and present danger of AIDS transmission to the third party; and if the physician has reason to believe that the patient, despite the physician's strong encouragement, has not and will not warn the third party, the procedure to be followed by the physician shall be established by the director of the department of health;

(c) As permitted in subsection (b)(1), (2), (5), (6), (8), (9), (10), (11), (12), (13), (14), and (15) of 5-37.3-4 of the Confidentiality of Health Care Information Act, and 40.1-5-26 of the Mental Health Law or as otherwise required by law.

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

23-6-18. Protection of records. - Providers of health care, public health officials, and any other person who maintains records containing information on AIDS test results of individuals shall be responsible for maintaining full confidentiality of these data, as provided in 23-6-17, and shall take

appropriate steps for their protection, including:

- (a) Keeping records secure at all times and establishing adequate confidentiality safeguards for any such records electronically stored;
- (b) Establishing and enforcing reasonable rules limiting access to these records; and
- (c) Training persons who handle records in security objectives and technique.

23-6-19. Penalties and remedies. - The penalties and remedies contained in 5-37.3-9 shall apply to violations of 23-6-17 and 23-6-18.

23-6-20. Notification of disclosure. - In all cases when an individual's AIDS test results are disclosed to a third party, other than a person involved in the care and treatment of the individual, and except as permitted in subsections (a), (b)(i), (b)(ii), (b)(iv), and (d) of 23-6-17, the person so disclosing shall make reasonable efforts to inform that individual in advance of:

- (a) The nature and purpose of the disclosure;
- (b) The date of disclosure;
- (c) The recipient of the disclosed information.

23-6-21. Protection of public health. - Nothing contained in 23-6-10 through 23-6-24 shall bar the director of health from exercising the authority and responsibilities conferred on him or her by law in protecting the public health.

23-6-22. Discrimination prohibited. - No person, agency, organization, or corporate body may discriminate against a person on the basis of a positive AIDS test result, or perception of same, in housing, employment, the granting of credit, public accommodation, or delivery of services, nor shall an AIDS test be required as a condition of employment, except:

- (a) Where nondiscrimination can be shown, on the testimony of competent medical authorities, to constitute a clear and present danger of AIDS virus transmission to others; or
- (b) Where laws of the state of Rhode Island may otherwise specifically

authorize such exceptions.

23-6-23. Administrative relief. - Any person who believes that he or she has been unlawfully discriminated against in housing, employment, the granting of credit, public accommodations or delivery of services on the basis of a positive AIDS test, or perception of same, may bring action for administrative relief before the Rhode Island human rights commission; and that commission may hear the matter and grant relief in such cases.

23-6-24. Insurance exemption. - (a) Life insurance. Sections 23-6-10 through 23-6-23 shall not apply to the offering or sale of life insurance in Rhode Island provided however, that any insurance company offering or selling life insurance within Rhode Island that requires an individual to be tested for infection with human immunodeficiency virus (HIV) or any other identified causative agent of AIDS for purposes of determining insurability shall: (i) give that individual prior written notice of those requirements, and (ii) proceed with that testing only upon the written authorization of the individual or in the event the individual is a minor, the individual's parent or guardian. Notwithstanding anything in 23-6-10 through 23-6-23 to the contrary, life insurance companies offering or selling life insurance in Rhode Island may otherwise obtain or disclose HIV test results in accordance with 23-6-17(c). Nothing herein shall prohibit that company from collecting data for statistical purposes, so long as the insured is not identified. However, nothing herein shall be construed to permit that insurance company to cancel or refuse to renew a life insurance policy which by its terms has not lapsed on the basis of a positive AIDS test result.

(b) Health benefits. Health benefits shall include accident and sickness, including disability or health insurance, health benefit plans and/or policies, hospital, health, or medical service plans, or any health maintenance organization plan pursuant to title 27 or otherwise; the provisions of 23-6-10 through 23-6-23 shall apply to the offer or sale of health benefits in this state by any company regulated under the laws of this state including but not limited to title 27 and chapter 62 of title 42 provided, however, 23-6-10 through 23-6-23 shall not apply to the following:

(i) Individual health benefit policies;

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

(iii) Late entrants into any group health benefits plan, regardless of the size

of the group. A late entrant shall be defined as any individual who does not enroll into a health plan when first eligible thereunder but who later seeks coverage under the group plan;

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

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

Nothing herein shall be construed to permit any company which offers or sells health benefits in this state to cancel or refuse to renew a health benefit, which has not by its terms lapsed, on the basis of a positive AIDS test result.

c) There is hereby established a commission to develop and recommend to the legislature a risk pool plan under which all insurers issuing health insurance in the state of Rhode Island shall participate and share a proportion of the risk and cost of insuring people with AIDS.

The commission shall consist of eleven (11) members; three (3) of whom shall be members of the house of representatives, not more than two (2) from the same political party, to be appointed by the speaker of the house; two (2) of whom shall be members of the senate, not more than one of whom shall be from the same political party, to be appointed by the majority leader; one of whom shall be the director of the department of health, or his or her designee; one of whom shall be the director of the department of business regulation, or his or her designee; two (2) of whom shall be representatives of the insurance community, to be appointed by the governor; and two (2) of whom shall be representatives of Rhode Island Project AIDS, to be appointed by the governor.

The commission shall meet at the call of the speaker, and shall make its report to the legislature on or before February 1, 1989.

23-13-19. Human immunodeficiency virus (HIV) testing. -

(a) Every physician or health care provider attending any person for prenatal care or family planning services shall offer testing for human immunodeficiency virus (HIV) unless deemed inappropriate by the physician. All testing pursuant to this section shall be performed in accordance with 23-6-12 and 23-6-13. The identity of the individuals tested under this section shall be maintained only at the site where the sample is drawn and shall not be released except as otherwise provided by statute. Each person who is offered such a test and counseling shall be provided with an "AIDS testing and notification form" which he or she shall sign and date in acknowledgment of that offer. The department of health shall be responsible for reasonable costs associated with performing and reporting the results of the HIV tests including the reasonable costs of pretest and post-test counseling. Such reasonable costs shall be negotiated and specified by contract.

(b) All persons tested under this section shall be provided pretest and post-test counseling in accordance with regulations adopted by the department of health; provided, however, that the counseling shall be in accordance with acceptable medical standards.

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

(b) The department of health shall be responsible for reasonable costs associated with performing and reporting the results of the HIV tests.

(c) All persons tested under this section shall be provided pretest and post-test counseling, and the department of health shall define in regulation the nature and scope of the counseling; provided, however, that the counseling shall be in accordance with acceptable medical standards.

(d) The department of health will either provide or pay for all pretest and post-test counseling. It will negotiate with the hospitals concerning incremental costs associated with pretest and post-test counseling and will provide reasonable reimbursement of these costs or provide the services

themselves in the case of post-test counseling.

40.1-24-20. Human immunodeficiency virus (HIV) testing -Facilities for drug abusers. - (a) Every physician or health care provider attending any person for any service offered at a facility for intravenous drug users, shall offer testing for human immunodeficiency virus (HIV) unless deemed inappropriate by the physician. All testing pursuant to this section shall be performed in accordance with 23-6-17 and 23-6-18, except where federal confidentiality laws may supercede. The identity of the individuals tested under this section shall be maintained only at the site where the sample is drawn, and shall not be released except as otherwise provided by statute.

(b) Each person who is offered a test and counseling shall be provided with an "AIDS testing and notification form" which he or she shall sign and date in acknowledgment of the offer.

(c) The department of health shall be responsible for reasonable costs associated with performing and reporting the results of the HIV tests, including the costs of pretest and post test counseling. The reasonable costs shall be negotiated and specified by contract.

(d) All persons tested under this section shall be provided pretest and post test counseling in accordance with regulations adopted by the department of health; provided, however, that the counseling shall be in accordance with acceptable medical standards.

42-56-37. Human Immunodeficiency Virus (HIV) testing. -Every person who shall be committed to the adult correctional institution to answer for any criminal offense, after conviction, shall be required to be tested for Human Immunodeficiency Virus (HIV). No consent for such testing shall be required from the person being tested, nor shall this test be subject to waiver. In addition, periodic testing for Human Immunodeficiency Virus (HIV), including testing at the time of release and when deemed appropriate by a physician, shall be required. No consent on the part of the person being tested shall be required.

All such inmates shall be provided appropriate pretest and post-test counseling in accordance with accepted medical standards. No inmate shall be punished, or denied recreation privileges solely on the basis of a positive test result. However, the department of corrections shall take steps as are reasonable to prevent persons testing positive for Human Immunodeficiency Virus (HIV) from infecting other inmates and/or correctional staff. Inmates who develop AIDS or AIDS related complex shall be entitled to all reasonable medical treatment available for their illness.

The department of corrections shall institute a comprehensive AIDS education and drug treatment program for inmates and staff at all of its facilities. The educational program for correctional staff shall be inservice, fully reimbursable to the employee, and mandatory and shall be given periodically in collaboration with the department of health. The department of corrections shall make easily accessible personal protective equipment for correctional personnel to be used in the event of administering cardiac or respiratory resuscitation.