

/\* SOUTH CAROLINA has mandatory testing for sex offenders; real estate disclosure laws; insurance laws; criminal exposure laws; and health care worker exposure laws, as well as warranty disclaimers on blood and body parts. \*/

16-3-740. Required testing of certain convicted sex offenders for Human Immunodeficiency Virus.

Within fifteen days of the conviction of any person for a crime involving sexual battery as defined in Section 16-3-651 or sexual conduct as defined in Section 16-3-800, if the conduct results in the exposure of the victim to blood or vaginal or seminal fluids of the convicted offender, the solicitor shall require that the convicted offender be tested for Human Immunodeficiency Virus (HIV), the virus that causes Acquired Immunodeficiency Syndrome (AIDS). The test must be administered by the local public health authority or the medical professional at the prison where the convicted offender is imprisoned. The results of the test must be reported to the South Carolina Department of Health and Environmental Control and to the solicitor who ordered the test. The solicitor shall notify the victim and the convicted sexual offender of the test results. The convicted offender shall pay for the test unless he is indigent, in which case the cost of the test must be paid by the State.

16-15-255. Required testing of certain additional convicted sex offenders for Human Immunodeficiency Virus.

Upon the conviction of any person for a violation of Section 16-15-90, 16-15-100, 16-15-120, or 16-15-140, if the violation results in the exposure of the victim to blood or vaginal or seminal fluids of the convicted offender, the convicted offender must be tested for Human Immunodeficiency Virus (HIV), the virus that causes Acquired Immunodeficiency Syndrome (AIDS). The test must be administered by the local public health authority or the medical professional at the prison if the convicted offender is imprisoned. The results of the test must be reported to the South Carolina Department of Health and Environmental Control, to the convicted offender, and to any person who may have been exposed as a direct result of the act leading to the conviction. The convicted offender shall pay for the test unless he is indigent, in which case the cost of the test must be paid by the State.

38-7-30. Eligibility for pool coverage.

(A) Any person who is a resident of this State for six months and his newborn child is eligible for pool coverage upon providing evidence of any of the following actions by an insurer on an application for health insurance comparable to that provided by

the pool submitted on behalf of the person:

- (1) a refusal to issue the insurance for health reasons;
- (2) a refusal to issue the insurance except with a reduction or exclusion of coverage for a preexisting health condition for a period exceeding twelve months, unless it is determined that the person voluntarily terminated his or did not seek any health insurance coverage before being refused issuance except with a reduction or exclusion for a preexisting health condition, and then seeks to be eligible for pool coverage after the health condition develops. This determination must be made by the board;
- (3) a refusal to issue insurance coverage comparable to that provided by the pool except at a rate exceeding one hundred and fifty percent of the pool rate.

(B) A person whose health insurance coverage is terminated involuntarily for any reason other than nonpayment of premium may apply for coverage under the plan but shall submit proof of eligibility according to subsection (A) of this section. If proof is supplied and if coverage is applied for within sixty days after the involuntary termination and if premiums are paid for the entire coverage period, the effective date of the coverage is the date of termination of the previous coverage. Waiting period and preexisting condition exclusions are waived to the extent to which similar exclusions, if any, have been satisfied under the prior health insurance coverage. The waiver does not apply to a person whose policy has been terminated or rescinded involuntarily because of a material misrepresentation. The board shall require an additional premium for coverage effected under the plan in this manner notwithstanding the premium limitation stated in Section 38-74-60.

(C) A person who is paying a premium for health insurance comparable to the pool plan in excess of one hundred fifty percent of the pool rate or who has received notice that the premium for a policy would be in excess of one hundred fifty percent of the pool rate may make application for coverage under the pool. The effective date of coverage is the date of the application, or the date that the premium is paid if later, and any waiting period or preexisting condition exclusion is waived to the extent to which similar exclusions, if any, were satisfied under the prior health insurance plan. Benefits payable under the pool plan are secondary to benefits payable by the previous plan. The board shall require an additional premium for coverage effected under the plan in this manner notwithstanding the premium limitation stated in Section 38-74-60.

(D) A person not eligible for pool coverage is one who meets any one of the following criteria:

- (1) a person who has coverage under health insurance comparable

to that offered by the pool from an insurer or any other source except a person who would be eligible under subsection (C) of this section;

(2) a person who is eligible for health insurance comparable to that offered by the pool from an insurer or any other source except a person who would be eligible for pool coverage under Section 38-74-30(A)(2) or 38-74-30(A)(3);

(3) a person who at the time of pool application is eligible for health care benefits under state Medicaid or Medicare;

(4) a person having terminated coverage in the pool unless twelve months have lapsed since termination unless termination was because of ineligibility;

(5) a person on whose behalf the pool has paid out two hundred fifty thousand dollars in benefits;

(6) inmates of public institutions and persons eligible for public programs;

(7) a person who fails to maintain South Carolina residency;

(8) a person who has been diagnosed as being infected with acquired immunodeficiency syndrome (AIDS).

(E) Any person who ceases to meet the eligibility requirements of this section may be terminated at the end of the policy period.

40-57-270. Psychological stigmas on real property; nondisclosure; misrepresentation.

(A) The fact or suspicion that a property may be or is psychologically impacted, as a result of facts or suspicions that the death of an occupant of the real property has occurred or may have occurred upon the real property, or the manner of death where death has occurred, or that an occupant was inflicted with or died from 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 occupancy of a dwelling place is not a material fact that must be disclosed in a real estate transaction.

(B) No cause of action may arise against an owner of real estate or his agent for the failure to disclose to the transferee that the transferred property was psychologically impacted as described in subsection (A) of this section.

(C) This section does not relieve an owner or agent of an obligation to disclose the physical condition of the premises.

(D) Nothing in this section immunizes an owner or his agent from making an intentional misrepresentation in response to a direct inquiry from a transferee or a prospective transferee of real property, concerning psychological impacts or stigmas associated

with real property.

44-29-20. Transportation and handling of human remains infected by dangerous, contagious, or infectious disease.

Prior to transportation of human remains known to be infected by any dangerous, contagious, or infectious disease into, through, or out of this State or any city, town, or county within this State, the hospital, health or medical clinic, physician, medical facility, person, or other entity in possession of the human remains shall inform any funeral director, ambulance driver, or any other person or entity who is to transport the remains that the remains are infected by a dangerous, contagious, or infectious disease.

In the event that human remains as described above are not to be moved immediately but are to be operated on for purposes of autopsy or otherwise handled, any doctor, technician, or other person charged with the responsibility of handling the remains known to be infected by any dangerous, contagious, or infectious disease must be informed that the remains are so infected.

For the purpose of enforcing this section, the Department of Health and Environmental Control (department) shall make and distribute, at intervals considered necessary by the department, to all hospitals, health or medical clinics, other medical facilities, persons, or other entities who may normally be in possession of human remains a list declaring what diseases are regarded as dangerous, contagious, or infectious and shall classify these diseases and shall designate the diseases as are of so dangerous a character that transportation of human remains infected by them is forbidden except under conditions as prescribed by the department which it considers proper for the transportation those remains.

44-29-60. Sexually transmitted diseases declared dangerous to public health; infection of another with sexually transmitted disease.

Sexually transmitted diseases which are included in the annual Department of Health and Environmental Control List of Reportable Diseases are declared to be contagious, infectious, communicable, and dangerous to the public health. Sexually transmitted diseases include all venereal diseases. It is unlawful for anyone infected with these diseases to knowingly expose another to infection.

44-29-70. Reports of cases of sexually transmitted diseases.

Any physician or other person who makes a diagnosis of or treats a case of a sexually transmitted disease and any superintendent or manager of a hospital, dispensary, health care related

facility, or charitable or penal institution in which there is a case of a sexually transmitted disease shall report it to the health authorities according to the form and manner as the Department of Health and Environmental Control directs.

44-29-80. Laboratories shall report positive tests and cooperate in preventing spread of sexually transmitted disease. Any laboratory performing a positive laboratory test for a sexually transmitted disease shall make a report of the case or positive laboratory test for a sexually transmitted disease to the Department of Health and Environmental Control in the form and manner as the department directs and shall cooperate with the Department of Health and Environmental Control and local boards of health in preventing the spread of sexually transmitted diseases.

44-29-90. Examination, treatment and isolation of persons infected with venereal disease. State, district, county, and municipal health officers, in their respective jurisdictions, when in their judgment it is necessary to protect the public health, shall make examination of persons infected or suspected of being infected with a sexually transmitted disease, require persons infected with a sexually transmitted disease to report for treatment appropriate for their particular disease provided at public expense, and request the identification of persons with whom they have had sexual contact or intravenous drug use contact, or both. The health officer may isolate persons infected or reasonably suspected of being infected with a sexually transmitted disease. To the extent resources are available to the Department of Health and Environmental Control for this purpose, when a person is identified as being infected with Human Immunodeficiency Virus (HIV), the virus which causes Acquired Immunodeficiency Syndrome (AIDS), his known sexual contacts or intravenous drug use contacts, or both, must be notified but the identity of the person infected must not be revealed. Efforts to notify these contacts may be limited to the extent of information provided by the person infected with HIV. Public monies appropriated for treatment of persons infected with a sexually transmitted disease must be expended in accordance with priorities established by the department, taking into account the cost effectiveness, curative capacity of the treatment, and the public health benefit to the population of the State.

44-29-100 Examination and treatment of prisoners for sexually Any person who is confined or imprisoned in any state, county, or

city prison of this State may be examined and treated for a sexually transmitted disease by the health authorities or their deputies. The state, county, and municipal boards of health may take over a portion of any state, county, or city prison for use as a board of health hospital. Persons who are confined or imprisoned and who are suffering with a sexually transmitted disease at the time of expiration of their terms of imprisonment must be isolated and treated at public expense as provided in Section 44-29-90 until, in the judgment of the local health officer, the prisoner may be medically discharged. In lieu of isolation, the person, in the discretion of the board of health, may be required to report for treatment to a licensed physician or submit for treatment provided at public expense by the Department of Health and Environmental Control as provided in Section 44-29-90.

44-29-110. No discharge from confinement until cured of venereal disease; subsequent treatment.

No person suffering from any of the sexually transmitted diseases described in Section 44-29-60 may be discharged from confinement unless he is pronounced cured of the disease by a state, county, or municipal health officer or, if no cure is available, upon the recommendation of the Department of Health and Environmental Control. If any person is released before a complete cure of the sexually transmitted disease of which he is suffering, the department shall direct the individual as to whom to report for further treatment, and failure to report at the stated intervals as directed, in each instance, constitutes a violation of the provisions of Sections 44-29-60 to 44-29-140 and subjects him, upon conviction, to the penalty set forth in Section 44-29-140.

44-29-115. Procedure for isolation.

If the Department of Health and Environmental Control believes that a person must be isolated pursuant to Section 44-29-90, 44-29-100, or 44-29-110, it shall file a petition with the probate court of the county where the person is located or where the person resides. The complaint must state the specific harm thought probable and the factual basis for this belief. If the court, after due notice and hearing, is satisfied that the petition is well-founded, may order that the person must be isolated.

Any person isolated pursuant to Section 44-29-90, 44-29-100, or 44-29-115 has the right to appeal to any court having jurisdiction for review of the evidence under which he was isolated.

A court may not order isolation for more than ninety days. If the department determines that the grounds for isolation no longer

exist, it shall file a notice of intent to discharge with the court before the person isolated is released.

The person for whom isolation is sought must be represented by counsel all proceedings and, if he cannot afford to hire an attorney, the court shall appoint an attorney to represent him. The attorney for the person isolate must have access to any documents regarding the isolation.

44-29-130. Adoption of regulations pertaining to sexually transmitted disease.

The Department of Health and Environmental Control shall promulgate regulations necessary to carry out the purposes of Sections 44-29-60 to 44-29-140, other than Section 44-29-120, including regulations providing for labor on the part of isolated persons considered necessary to provide in whole or in part for their subsistence and to safeguard their general health and regulations concerning sexually transmitted diseases as it considers advisable. All regulations so made are binding upon all county and municipal health officers and other persons affected by Sections 44-29-60 to 44-29-140.

44-29-135. Confidentiality of sexually transmitted disease records.

All information and records held by the Department of Health and Environmental Control and its agents relating to a known or suspected case of a sexually transmitted disease are strictly confidential except as provided in this section. The information must not be released or made public, upon subpoena or otherwise, except under the following circumstances:

- (a) release is made of medical or epidemiological information for statistical purposes in a manner that no individual person can be identified; or
- (b) release is made of medical or epidemiological information with the consent of all persons identified in the information released;
- (c) release is made of medical or epidemiological information to the extent necessary to enforce the provisions of this chapter and related regulations concerning the control and treatment of a sexually transmitted disease;
- (d) release is made of medical or epidemiological information to medical personnel to the extent necessary to protect the health or life of any person; or
- (e) in cases involving a minor, the name of the minor and medical information concerning the minor must be reported to appropriate agents if a report is required by the Child Protection Act of 1977. No further information is required to be

released by the department. If a minor has Acquired Immunodeficiency Syndrome (AIDS) or is infected with Human Immunodeficiency Virus (HIV), the virus that causes AIDS, and is attending the public schools, the superintendent of the school district and the nurse or other health professional assigned to the school the minor attends must be notified.

44-29-136. Court orders for disclosure of records for law enforcement purposes; confidentiality safeguards.

(A) A portion of a person's sexually transmitted disease test results disclosed to a solicitor or state criminal law enforcement agency pursuant to Section 44-29-135(c) must be obtained by court order upon a finding by the court that the request is valid under Section 44-29-135(c) and that there is a compelling need for the test results. In determining a compelling need, the court must weigh the need for disclosure against both the privacy interest of the test subject and the potential harm to the public interest if disclosure deters future Human Immunodeficiency Virus-related testing and counselling or blood, organ, and semen donation. No information regarding persons other than the subject of the test results must be released. The court shall provide the department and the person who is the subject of the test results with notice and an opportunity to participate in the court hearing.

(B) No court may issue an order solely on the basis of anonymous tips or anonymous information. A person who provides information relied upon by a law enforcement agency or solicitor to obtain records under Section 44-29-135(c) shall sign a sworn affidavit setting forth the facts upon which he bases his allegations. This person shall appear and be subject to examination and cross-examination at the hearing to determine whether an order requiring disclosure should be granted.

(C) Pleadings pertaining to disclosure of test results must substitute a pseudonym for the true name of the subject of the test. The disclosure to the parties of the subject's true name must be communicated in documents sealed by the court. Court proceedings must be conducted in camera unless the subject of the test results requests a hearing in open court. All files regarding the court proceedings must be sealed unless waived by the subject of the test results.

(D) Upon issuance of an order to disclose the test results pursuant to Section 44-29-135(c), the court may impose appropriate safeguards against the unauthorized disclosure of the information including, but not limited to, specifying who may have access to the information, the purposes for which the information must be used, and prohibitions against further



disclosure of the information.

44-29-140. Penalties pertaining to venereal disease.

Any person who violates any of the provisions of Sections 44-29-60 to 44-29-140, other than Section 44-29-120, or any regulation made by the Department of Health and Environmental Control pursuant to the authority granted by law, or fails or refuses to obey any lawful order issued by any state, county, or municipal health officer, pursuant to Sections 44-29-60 to 44-29-140, or any other law or the regulations prescribed by law, is guilty of a misdemeanor and, upon conviction, must be fined not more than two hundred dollars or be imprisoned for not more than thirty days.

44-29-145. Penalty for exposing others to Human Immunodeficiency Virus.

It is unlawful for a person who knows that he is infected with Human Immunodeficiency Virus (HIV) to:

- (1) knowingly engage in sexual intercourse, vaginal, anal, or oral, with another person without first informing that person of his HIV infection;
- (2) knowingly commit an act of prostitution with another person;
- (3) knowingly sell or donate blood, blood products, semen, tissue, organs, or other body fluids;
- (4) forcibly engage in sexual intercourse, vaginal, anal, or oral, without the consent of the other person, including one's legal spouse; or
- (5) knowingly share with another person a hypodermic needle, syringe, or both, for the introduction of drugs or any other substance into, or for the withdrawal of blood or body fluids from the other person's body without first informing that person that the needle, syringe, or both, has been used by someone infected with HIV.

A person who violates this section is guilty of a felony and, upon conviction, must be fined not more than five thousand dollars or imprisoned for not more than ten years.

44-29-146. Physicians and state agencies exempt from liability for disclosure of persons carrying Human Immunodeficiency Virus; "contact" defined.

A physician or state agency identifying and notifying a spouse or known contact of a person having Human Immunodeficiency Virus (HIV) infection or Acquired Immunodeficiency Syndrome (AIDS) is not liable for damages resulting from the disclosure.

"Contact" means the exchange of body products or body fluids by sexual acts or percutaneous transmission.

44-29-230. Testing required when health care worker exposed to Human Immunodeficiency Virus.

While working with a patient or a patient's blood or body fluids, if a health care worker is involved in an incident resulting in possible exposure to Human Immunodeficiency Virus (HIV), and a health care professional has probable cause to believe that the incident may have caused infection, the professional may require the patient to be tested. The test results must be given to the professional who shall report the results to the worker and patient.

44-43-10. Certain warranties shall not be applicable to transfers of human tissues and blood.

The implied warranties of merchantability and fitness shall not be applicable to a contract for the sale, procurement, processing, distribution or use of human tissues such as corneas, bones or organs, whole blood, plasma, blood products or blood derivatives. Such human tissues, whole blood, plasma, blood products or blood derivatives shall not be considered commodities subject to sale or barter and the transplanting, injection, transfusion or other transfer of such substances into the human body shall be considered a medical service.