

/\* Utah has passed laws concerning inmate, sex offender and court-ordered testing, as well as educational programs and a communicable disease control act. \*/

## CHAPTER 6

### COMMUNICABLE DISEASE CONTROL ACT

26-6-3. Authority of department to investigate and control causes of epidemic infections and communicable disease - Requirements for reporting AIDS and HIV infection - Exceptions - Anonymous testing site - Reports regarding information obtained from anonymous testing.

(1) The department has authority to investigate and control the causes of epidemic infections and communicable disease, and shall provide for the detection, reporting, prevention, and control of communicable diseases and epidemic infections or any other health hazard which may affect the public health. The department has authority to adopt rules, not inconsistent with law, which are necessary to aid in the prevention and control of communicable disease and epidemic infections.

(2) Because of the nature and consequences of Acquired Immunodeficiency Syndrome and Human Immunodeficiency Virus infection, the department shall:

(a) require reporting of those conditions; and

(b) utilize contact tracing and other methods for "partner" identification and notification. The department shall, by rule, define persons who shall be considered "partners" for purposes of this section.

(3) (a) The requirements of Subsection (2) do not apply to seroprevalence and other epidemiological studies conducted by the department.

(b) The requirements of Subsection (2) do not apply to, and anonymity shall be provided in, research studies conducted by universities or hospitals, under the authority of institutional review boards if those studies are funded in whole or in part by research grants and if anonymity is required in order to obtain the research grant or to carry out the research.

(4) For all purposes of this chapter, Acquired Immunodeficiency Syndrome and Human Immunodeficiency Virus infection shall be considered communicable and infectious diseases.

(5) The department may establish or allow one site or agency within the state to provide anonymous testing.

(a) The site or agency that provides anonymous testing shall maintain

accurate records regarding:

(i) the number of HIV positive individuals that it is able to contact or inform of their condition;

(ii) the number of HIV positive individuals who receive extensive counseling;

(iii) how many HIV positive individuals provide verifiable information for partner notification; and

(iv) how many cases in which partner notification is carried through.

(b) A statistical report of the information maintained under Subsection a shall be presented to the Legislative Interim Health Committee on an annual basis. The information collected under Subsection (a) and the reports required by this subsection shall be maintained and presented in such a way that no person is identifiable.

(c) If the information and reports indicate that anonymous testing is not resulting in partner notification, the department shall phase out the anonymous testing program allowed by this subsection.

26-6-5. Willful introduction of communicable disease a misdemeanor.

Any person who willfully or knowingly introduces any communicable or infectious disease into any county, municipality, or community is guilty of a class A misdemeanor, except as provided in Section 76-10-1309.

## CHAPTER 13

### CURRICULUM IN THE PUBLIC SCHOOLS

#### PART 1

#### GENERAL COURSES OF INSTRUCTION

53A-13-101. Instruction in health - Parental consent requirements - Character habits - Partisan political and religious doctrine prohibited.

(1) The State Board of Education shall establish curriculum requirements under Section 53A-1-402, that include instruction in:

(a) community and personal health;

(b) physiology;

- (c) personal hygiene; and
  - (d) prevention of communicable disease, including acquired immunodeficiency syndrome. That instruction shall stress the importance of abstinence from all sexual activity before marriage and fidelity after marriage as methods of prevention of acquired immunodeficiency syndrome.
- (2) Instruction in the courses described in Subsection(1) shall be consistent and systematic in grades eight through 12. At the request of the board, the Department of Health shall cooperate with the board in developing programs to provide instruction in those areas.
  - (3) The board shall adopt rules that provide that the parental consent requirements of Sections 76-7-322 and 76-7-323 are complied with, and rules that require a student's parent or legal guardian to be notified in advance and have an opportunity to review the information for which parental consent is required under Sections 76-7-322 and 76-7-323. The board shall also provide procedures for disciplinary action for violation of Section 76-7-322 or 76-7-323.
  - (4) Honesty, temperance, morality, courtesy, obedience to law, respect for and an understanding of the constitutions of the United States and the state of Utah, the essentials and benefits of the free enterprise system, respect for parents and home, and the dignity and necessity of honest labor and other skills, habits, and qualities of character which will promote an upright and desirable citizenry and better prepare students for a richer, happier life shall be taught in connection with regular school work.
  - (5) Partisan political, atheistic, sectarian, religious, or denominational doctrine may not be taught in the public schools.
  - (6) Local school boards and their employees shall cooperate and share responsibility in carrying out the purposes of this chapter.

64-13-36. Testing of prisoners for AIDS and HIV infection - Segregation - Medical care - Department authority.

- (1) For purposes of this section:
  - (a) "Prisoner" means a person who has been adjudicated and found guilty of a criminal offense, who is in the custody of and under the jurisdiction of the department.
  - (b) "Test" or "testing" means a test or tests for Acquired Immunodeficiency Syndrome or Human Immunodeficiency Virus infection in accordance with standards recommended by the Department of Health.

(2) (a) Within 90 days after July 1, 1989, the effective date of this act, the department shall test or provide for testing of all prisoners who are under the jurisdiction of the department, and subsequently test or provide for testing of all prisoners who are committed to the jurisdiction of the department upon admission or within a reasonable period after admission.

(b) At the time that test results are provided to persons tested, the department shall provide education and counseling regarding Acquired immunodeficiency Syndrome and Human Immunodeficiency Virus infection.

(3) (a) The results of tests conducted under Subsection (2) shall become part of the inmate's medical file, accessible only to persons designated by the department by rule, and in accordance with any other legal requirement for reporting of Acquired Immunodeficiency Syndrome or Human immunodeficiency Virus infection.

(b) Medical and epidemiological information regarding results of tests conducted under Subsection (2) shall be provided to the Department of Health.

(4) (a) The department shall house prisoners who test positive for Acquired Immunodeficiency Syndrome or Human Immunodeficiency Virus infection in a single cell or room or provide for segregation of that person from members of the prison population. No person who tests negative for Acquired Immunodeficiency Syndrome or Human Immunodeficiency Virus infection may be placed or housed in a cell or room with a person who has tested positive for either of those conditions, except upon his written request.

(b) The department shall provide reasonable and adequate medical care for members of the prison population who test positive for Acquired Immunodeficiency Syndrome or Human Immunodeficiency Virus infection.

(c) The department has authority to take action with regard to any prisoner who has tested positive for Acquired Immunodeficiency Syndrome or Human Immunodeficiency Virus infection, as it deems reasonable and necessary for the safety and security of the prison population and prison staff.

(d) This subsection does not require or suggest that prisoners who test positive for Acquired Immunodeficiency Syndrome or Human Immunodeficiency Virus infection be placed in separate cell blocks or cell areas separate from the general prison population, unless such separation is medically necessary for the protection of the general prison population or staff.

(e) Prisoners who test positive for Acquired Immunodeficiency Syndrome or Human Immunodeficiency Virus infection may not be excluded from common areas of the prison that are accessible to other prisoners, solely on

the basis of that condition, unless it is medically necessary for protection of the general prison population or staff.

(5) If the department complies with Subsections (2), (3), and (4) it shall be considered to have discharged its duty and to have taken reasonable and necessary precautions to prevent transmission of Acquired Immunodeficiency Syndrome and Human Immunodeficiency Virus infection.

64-13-37. Department authorized to test offenders for communicable disease.

(1) As used in this section, "communicable disease" means:

(a) an illness due to a specific infectious agent or its toxic products, which arises through transmission of that agent or its products from a reservoir to a susceptible host either directly, as from an infected person or animal, or indirectly, through an intermediate plant or animal host, vector, or the inanimate environment; and

(b) a disease designated by the Department of Health by rule as a communicable disease in accordance with Section 26-6-7.

(2) The department may:

(a) test an offender for a communicable disease upon admission or within a reasonable time after admission to a correctional facility; and

(b) periodically retest the offender for a communicable disease during the time the offender is in the custody of the department.

78-3a-55. Court records - Inspection - When HIV infection tests, fingerprints, or photographs may be taken - Expungement.

(1) (a) The court and the probation department shall keep records as required by the board and the presiding judge.

(b) Court records shall be open to inspection by the parents or guardian, other parties in the case, the attorneys, and agencies to which custody of a child has been transferred.

(c) With the consent of the judge, court records may be inspected by the child, by persons having a legitimate interest in the proceedings, and by persons conducting pertinent research studies.

(d) Probation officers' records and reports of social and clinical studies are not open to inspection, except by consent of the court, given under rules

adopted by the board.

(2) Photographs may be taken of a child 14 years of age or older who is taken into custody for the alleged commission of an offense under Section 78-3a-16 that would also be an offense if the child were 15 years of age or older.

(3) Fingerprints may be taken of a child 14 years of age or older who is taken into custody for the alleged commission of an offense that would be a felony if the child were 18 years or older.

(4) HIV testing may be conducted on a child who is taken into custody after having been adjudicated to have violated state law prohibiting a sexual offense under Title 76, Chapter 5, Part 4, upon the request of the victim or the parent or guardian of the minor victim.

(5) HIV tests, photographs, and fingerprints may not be taken of a child younger than 14 without the consent of the court.

(6) Photographs and fingerprints shall be filed together in a separate juvenile file.

(7) Photographs and fingerprints may not be distributed or disbursed to individuals or agencies other than state or local law enforcement agencies.

(8) When a child's juvenile record is expunged, all photographs, and fingerprints, and other records as ordered shall upon court order be destroyed by the law enforcement agency.