

Hawaii

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April 8, 2011

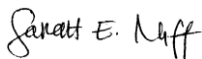
To the Reader:

The *Compendium of State HIV Testing Laws* describes key state HIV testing laws and policies. Each state's HIV testing laws are unique and many have undergone revision or supplementation since the release of the [CDC's 2006 HIV testing recommendations](#). The *Compendium* is designed to help clinicians understand HIV testing laws and to implement sound HIV testing policies. It should not, however, be used as an official legal document.

The NCCC provides clinical consultation for healthcare providers as part of the HRSA [AIDS Education and Training Centers](#) program. Clinicians with questions about HIV testing are encouraged to call the *National HIV Telephone Consultation Service (Warmline)* at (800) 933-3413. The Warmline also provides advice on HIV management, including antiretroviral treatment. Other NCCC consultation services include: the National Clinicians' Post-Exposure Prophylaxis Hotline ([PEPLINE](#)) at (888) 448-4911 for advice on managing occupational exposures to HIV and hepatitis; and the National Perinatal Consultation and Referral Service ([Perinatal HIV Hotline](#)) at (888) 448-8765 for consultation on preventing mother-to-child transmission of HIV.

We update the *Compendium* periodically, but it is beyond the scope of the project to perform updates and verification concurrent with all changes. We encourage readers to send updates (with citations when possible) and comments to Sarah Neff at neffs@nccc.ucsf.edu.

Thank you,



Sarah E. Neff, MPH
Director of Research and Evaluation

&



Ronald H. Goldschmidt, MD
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The Warmline, PEPLINE, and Perinatal Hotline are part of the National HIV/AIDS Clinicians' Consultation Center (NCCC) based at San Francisco General Hospital/ UCSF. The NCCC is a component of the **AIDS Education and Training Centers (AETC) Program** funded by the Ryan White CARE Act of the **Health Resources and Services Administration (HRSA)** HIV/AIDS Bureau in partnership with the **Centers for Disease Control and Prevention (CDC)**.

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Definitions and Helpful Resources

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Definitions Commonly Used Nationally

- **Anonymous Testing** – Patient’s name is not recorded with test results.
- **Confidential** – Patient’s name is recorded with test results.
- **HIV Prevention Counseling** – Refers to an interactive process of assessing risk, recognizing specific behaviors that increase the risk for acquiring or transmitting HIV and developing a plan to take specific steps to reduce risks.¹
 - **Pre-test counseling** can include: (1) discussing HIV, risk factors and prevention methods; (2) explaining the meaning of positive and negative test results and their implications; (3) assessing the patient’s personal and social supports; (4) determining the patient’s readiness to cope with test results; (5) discussing disclosure of test results to others; and (6) advising the patient if reporting positive test results to health authorities is required.
 - **Post-test counseling** can include: (1) informing the patient of the results and meaning of the test results; (2) providing education about avoiding risks of sexual and injection drug exposures; and, for patients who test positive, (3) assessing the impact of test results for the patient and family; (3) explaining treatment options; (4) discussing partner counseling and disclosure of test results to others; and (5) initiating a support and treatment plan.
- **General Consent** – Consent for HIV screening is included in the general medical consent.
- **HIV** – Human Immunodeficiency Virus.
- **Informed Consent** – A process of communication between patient and provider through which an informed patient can choose whether to undergo HIV testing or decline to do so. Elements of informed consent typically include providing oral or written information regarding HIV, the risks and benefits of testing, the implications of HIV test results, how test results will be communicated, and the opportunity to ask questions.¹
- **Name-based reporting** – Cases are reported by patient name (required in all states except HI and VT).
- **Opt-in** – Patients typically are provided pre-HIV test counseling and must consent specifically to an HIV-antibody test, either orally or in writing.²
- **Opt-out** – Performing HIV screening after notifying the patient that: the test will be performed; and the patient may elect to decline or defer testing. Assent is inferred unless the patient declines testing.¹
- **Routine Testing** – HIV screening that is performed routinely during health-care encounters.
- **Rapid Testing** – Testing with any of the six FDA-approved rapid HIV tests that produce results in 30 minutes or less.³
- **Specific Consent** – Consent for the HIV screening is separate from the general medical consent.

Helpful Resources

CDC Recommendations and Guidelines: <http://www.cdc.gov/hiv/topics/testing/guideline.htm>

Emergency Department Implementation Guide: <http://edhivtestguide.org/>

Prenatal HIV Testing Website: <http://www.cdc.gov/hiv/topics/perinatal/1test2lives/>

For questions or comments about the compendium, contact NCCC: neffs@nccc.ucsf.edu

Clinicians with questions about HIV testing can call the Warmline at 800-933-3413.

¹ Revised Recommendations for HIV Testing of Adults, Adolescents, and Pregnant Women in Health-Care Settings. MMWR Recomm Rep. 2006 Sep 22;55(RR-14):1-17; quiz CE1-4. <http://www.cdc.gov/mmwr/preview/mmwrhtml/rr5514a1.htm>

² <http://www.cdc.gov/mmwr/PDF/wk/mm5145.pdf>

³ <http://www.cdc.gov/hiv/topics/testing/resources/factsheets/rt-lab.htm>

Hawaii

A Quick Reference Guide for Clinicians to Hawaii HIV Testing Laws

April 8, 2011

This Quick Reference Guide for clinicians is a summary of relevant Hawaii state HIV testing laws. Note that if a section in this Quick Reference Guide reads “no specific provisions were found,” provisions actually might exist for this topic within the state’s statutes, codes, or rules and regulations, but probably are not essential to clinicians.

For a more complete synopsis of Hawaii HIV testing laws, please refer to the section of the Compendium that follows this Quick Reference Guide.

Informed Consent

- Health care provider must afford the patient the opportunity to decline testing, but specific written consent is not required – opt-out process. (see *State Policies Relating to HIV Testing, 2011*, below, for exceptions).
- Verbal consent is acceptable at anonymous testing sites.

Counseling

- Pre-test counseling is not required for tests ordered by a health care provider. Post-test counseling must be offered in cases of reactive, indeterminate, or confirmed positive results.

Provisos of Testing

- **Anonymous**
 - Testing must be available anonymously.
 - Anonymous testing is available at designated anonymous testing sites.
- **Rapid**
 - No specific provisions regarding rapid testing were found.
- **Routine**
 - No specific provisions regarding routine testing were found.

Disclosure

- No specific provisions regarding disclosure were found.

Minor/Adolescent Testing

- Minors may consent to STD testing and treatment, HIV not explicitly included.

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Perinatal Quick Reference Guide:

A Guide to Hawaii Perinatal HIV Testing Laws for Clinicians

April 8, 2011

This Perinatal Quick Reference Guide for clinicians is a summary of relevant Hawaii perinatal state HIV testing laws. Note that if a section in this Quick Reference Guide reads “no specific provisions were found,” provisions actually might exist for this topic within the state’s statutes, codes, or rules and regulations, but probably are not essential to clinicians.

For a more complete synopsis of Hawaii HIV testing laws, please refer to the corresponding section of the *State HIV Testing Laws Compendium* (www.nccc.ucsf.edu), “Testing of pregnant women and/or newborns.”

Prenatal

- **Initial visit**
 - No specific provisions regarding initial visit prenatal testing were found.
- **Third trimester**
 - No specific provisions regarding third trimester prenatal testing were found.

Labor & Delivery

- No specific provisions regarding labor & delivery testing were found.

Neonatal

- No specific provisions regarding neonatal testing were found.

Other

- N/A

**Hawaii
State Policies Relating to HIV Testing, 2011**

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Hawaii Revised Statutes [HRS]

Title 19: Health..... Pages 3-12
Title 24: Insurance..... Pages 13-19
Title 31: Family..... Pages 20-21
Title 38: Procedural and Supplementary Provisions Pages 22-23

Hawaii Administrative Rules [HAR]

Title 11: Department of Health..... Pages 24-26

	Policy Category	Type	Section Code(s)
RESTRICTIONS/MANDATES	Restrictions on use of HIV test	Use of HIV test results to determine insurance eligibility prohibited	24 HRS § 431:13-103
	Mandatory testing within the criminal justice system	Potential transmission to victims upon written request of victim	19 HRS § 325-16.5 38 HRS § 801D-4
		Persons convicted of a sexual offense (including juveniles)	19 HRS § 325-16.5
	Mandatory testing outside of the criminal justice system	No related laws found	
PRE-TESTING	Mandatory offering of HIV/AIDS information and/or testing	Persons seeking marriage licenses must receive HIV information	19 HRS § 572-5
	Informed consent	Informed consent required – opt-out, specific written consent not required.	19 HRS § 325-16
		Verbal consent acceptable at anonymous testing sites	19 HRS § 325-16
		Exceptions to required consent	19 HRS § 325-16
	Counseling requirements	No pre-test counseling required. Post-testing counseling must be offered if results are reactive, indeterminate, or confirmed positive.	19 HRS § 325-16
Pre and post-test counseling required for both victim and offender with testing of sex		19 HRS § 325-16.5	

		offender	
	Anonymous testing	Verbal consent acceptable at anonymous testing sites	19 HRS § 325-16
POST-TESTING	Disclosure/confidentiality	Exceptions to confidentiality	19 HRS § 325-101
		Penalties for unauthorized disclosure of HIV results	19 HRS § 325-102
	Reporting	Code-based reporting	HAR § 11-156-8.8 HAR § 11-156-8.9
OTHER	Testing of pregnant women and/or newborns	No related laws found	
	Testing of minors/adolescents	Minors may consent to treatment for venereal disease	31 HRS § 577A-2
	Rapid HIV testing	No related laws found	
	Training and education of health care providers	No related laws found	

Recommended Resources

Hawaii State Legislature: Bill Status and Documents

<http://www.capitol.hawaii.gov/site1/docs/docs.asp?press1=docs>

Hawaii State Department of Health Administrative Rules

<http://www.hawaii.gov/health/about/rules/index.html>

Hawaii State Department of Health

<http://www.state.hi.us/health/>

Title 19: Health

HI Title 19 Code §	Code Language
§ 325-16	<p>Informed consent for testing or disclosure</p> <p>(a) a health care provider may subject a person's body fluid or tissue to a test for the presence of human immunodeficiency virus infection after:</p> <ol style="list-style-type: none"> (1) Orally explaining to the person that certain personalized test results are maintained by the department of health, according to strict confidentiality protocols established by law; (2) Orally advising the person that free and anonymous human immunodeficiency virus testing is available through the department of health and certain community agencies; (3) Providing the person reasonable opportunity to decline the test; and (4) Receiving the person's express oral consent to the test. <p>A health care provider may, for the purpose of obtaining consent to the test and in lieu of the oral-consent procedure specified in this subsection, use a written form that, at the minimum, provides equivalent information to that prescribed by paragraphs (a) (1) and (a) (2); provided that the health care provider shall allow the person reasonable opportunity to decline consent by declining to sign the form.</p> <p>(b) No blood bank, plasma center, or any other public or private agency, institution, or individual (except a health care provider acting pursuant to subsections (a) or (c)), may subject a person's body fluids or tissue to a test for the presence of human immunodeficiency virus infection unless the subject of the test:</p> <ol style="list-style-type: none"> (1) Provides informed written consent pursuant to the standards in section 671-3 to the testing; and (2) Is afforded the opportunity to receive human immunodeficiency virus pre-test counseling by the party ordering or requesting that the test be performed; <p>provided that the person tested shall be provided with the test results By the blood bank, plasma center, agency, institution, or individual subjecting the person to the test. The opportunity to receive counseling shall be afforded both prior to obtaining a sample for human immunodeficiency virus testing and upon disclosure of the test results, regardless of the serostatus of the individual tested, except that testing conducted pursuant to subsection (c)(1) and (2) shall be exempted from the counseling requirements of this subsection.</p> <p>(c) Consent to testing is not required for any of the following:</p> <ol style="list-style-type: none"> (1) A health care provider or organ donor center that procures, processes, distributes, or uses human body parts donated for scientific purposes, without obtaining consent, may test for the presence of human immunodeficiency virus to assure medical acceptability of the gift for the purpose intended; (2) The department of health, laboratories and research facilities, health care providers, blood banks, plasma centers, and educational institutions may subject any body fluids or tissue to be used in research

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	<p>to a test for human immunodeficiency virus infection if the test is performed in a manner by which the identity of the test subject is not known and may not be retrieved by the researcher;</p> <p>(3) Anonymous testing carried out at human immunodeficiency virus test sites established by the department of health; provided that informed oral consent is obtained;</p> <p>(4) Testing of body fluids or tissue ordered by a third party, so long as that third party, including an insurance company, employer, or school, obtains the informed written consent of the person to be tested authorizing the release of the test results to the third party, and transmits a signed copy of the written informed consent to the health care provider prior to any release of the requested test results to the third party. The health care provider shall provide all positive and indeterminate human immunodeficiency virus test results and offer post-test counseling to those individuals with positive and indeterminate human immunodeficiency virus test results;</p> <p>(5) Informed consent is not required where the patient is unable to give consent and it is determined by the patient's treating physician that the patient's human immunodeficiency virus status is necessary to make a diagnosis or determine an appropriate course of treatment for the patient. The patient shall be informed in a timely manner that a test for the presence of human immunodeficiency virus has been performed pursuant to this paragraph, and the health care provider shall provide all positive and indeterminate human immunodeficiency virus test results and offer appropriate post-test counseling to those individuals with positive and indeterminate human immunodeficiency virus test results;</p> <p>(6) A treating physician may order a human immunodeficiency virus test without the patient's informed consent if the physician has determined that the patient is incapable of giving consent prior to the rendering of treatment and when there is reason to believe that the safety of a health care worker may be affected due to exposure to the blood or bodily fluids of a patient suspected of possible human immunodeficiency virus infection. The availability and quality of health care services shall not be compromised based on the findings and testing performed pursuant to this paragraph. The costs of any testing performed shall be borne by the health care provider and may not be claimed against the patient or the patient's health care insurer. The patient and the health care worker shall be informed in a timely manner that a test for the presence of human immunodeficiency virus has been performed pursuant to the provisions of this paragraph. The health care provider shall provide all positive and indeterminate human immunodeficiency virus test results and offer appropriate post-test counseling to the individual being tested and afford the health care worker the opportunity to obtain the test results and appropriate post-test counseling;</p> <p>(7) A person who has been charged, or a juvenile who has been charged, pursuant to section 707-730, 707-731, 707-732(1)(a), 707-733.5, or 707-741 shall be tested to determine the person's human immunodeficiency virus status upon court order issued pursuant to section 325-16.5. The test shall be performed according to the protocols set forth in section 325-17; and</p>

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	<p>(8) A person who has been convicted, or a juvenile who has been adjudicated, pursuant to section 707-730, 707-731, 707-732(1)(a), 707-733.5, or 707-741 shall be tested to determine the person's human immunodeficiency virus status upon court order issued pursuant to section 325-16.5. The test shall be performed according to the protocols set forth in section 325-17.</p> <p>(d) The confidentiality of all records held pursuant to this section is governed by section 325-101.</p> <p>(e) Any person or institution who wilfully violates any provision of this section shall be fined not less than \$1,000 nor more than \$10,000 for each violation plus reasonable court costs and attorney's fees as determined by the court, which penalty and costs shall be paid to the person whose records were released. This subsection shall not be construed as limiting the right of any person or persons to recover actual damages.</p> <p>(f) The department of health shall make available to health care providers current information on accessing anonymous human immunodeficiency virus testing for the purpose of providing that information to patients.</p> <p>(g) The department may adopt rules, pursuant to chapter 91, to establish procedures and standards to implement this section.</p> <p>(h) As used in this section, "health care provider" means a physician or surgeon licensed under chapter 453, a podiatrist licensed under chapter 463E, a health care facility as defined in section 323D-2, and their employee. "Health care provider" shall not mean any nursing institution or nursing service conducted by and for those who rely upon treatment by spiritual means through prayer alone, or employees of such an institution or service.</p>
§ 325-16.5	<p>Counseling and testing of sexual assault victims; testing of sex offenders upon request of victim</p> <p>(a) Any sexual assault victim, or the parent or guardian of a minor or incapacitated victim, shall be informed as soon as practicable after the assault, of the availability of human immunodeficiency virus testing for the victim, the availability of counseling for the victim, and the right of the victim to request that the person charged with an offense listed in section 325-16(b)(7), involving the victim, be tested for human immunodeficiency virus. The victim, or the parent or guardian of a minor or incapacitated victim, and the charged person shall be provided HIV counseling prior to being tested, and follow-up counseling at the time the results are presented to the victim or the parent or guardian of a minor or incapacitated victim and the charged person.</p> <p>Any sexual assault victim, or the parent or guardian of a minor or incapacitated victim, shall be informed as soon as practicable after a</p>

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	<p>conviction, of the availability of human immunodeficiency virus testing for the victim, the availability of counseling for the victim, and the right of the victim to demand that the person convicted of an offense listed in section 325-16(c)(8), involving the victim, be tested for human immunodeficiency virus. The victim, or the parent or guardian of a minor or incapacitated victim, and the convicted person shall be provided human immunodeficiency virus counseling prior to being tested, and follow-up counseling at the time the results are presented to the victim or the parent or guardian of a minor or incapacitated victim and the convicted person.</p> <p>(b) The court shall order a charged person to be tested for the etiological agent for the human immunodeficiency virus (HIV) if the victim has requested that the person be tested for HIV. The following procedures shall be used when ordering the test:</p> <p>(1) The victim or the parent or guardian of a minor or incapacitated victim shall be informed, as soon as practicable, of the right to request that the charged person be tested for HIV, the availability of department of health funded HIV testing for the victim, and the availability of HIV counseling for the victim. If the victim or parent or guardian of a minor or incapacitated victim requests the HIV status of a charged person, the victim, parent, or guardian shall designate a physician or a certified HIV counselor to receive the test result, provide counseling, and notify the victim, parent, or guardian of the test result;</p> <p>(2) If the victim or parent or guardian of a minor or incapacitated victim requests, in writing, that the charged person be tested for HIV, the court shall order the person to submit to an HIV test subject to a showing of probable cause. Notwithstanding any law to the contrary, for purposes of determining probable cause for this order, a court may consider all relevant facts indicating whether HIV transmission is demonstrated by the preponderance of the evidence. The proceedings to determine whether or not such an order is issued shall be in camera.</p> <p>Whenever practicable, blood samples taken for HIV testing under this section shall be taken in conjunction with samples taken for DNA testing under section 706-603; provided that the HIV test results shall not be disclosed to any person other than the physician or HIV counselor designated to receive the results by the victim or the parent or the guardian of a minor or incapacitated victim.</p> <p>The HIV test results shall remain otherwise confidential and the court may fashion orders to effectuate the prohibition against dissemination of the information. The adult probation division shall not disclose the HIV test results obtained under this section through any report. The court shall not take into account the HIV test results obtained under this section for any purpose, including determination of pretrial release of defendants, trial and sentencing. The Hawaii paroling authority shall not take into account the HIV test results obtained under this section for any purpose, including determination of minimum terms of incarceration and granting or denying of parole.</p>

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	<p>(c) The court shall order a convicted person to be tested for the etiological agent for HIV. The procedures used when ordering the test shall be as follows:</p> <p>(1) The victim or the parent or guardian of a minor or incapacitated victim shall be informed, as soon as practicable, of the court order mandating the convicted person be tested for HIV, the availability of department of health funded HIV testing for the victim, and the availability of HIV counseling for the victim. The victim, parent, or guardian shall designate a physician or a certified HIV counselor to receive the test results of the convicted person, provide counseling, and notify the victim, parent, or guardian of the test results; and</p> <p>(2) The proceedings to issue such an order shall be in camera.</p> <p>Whenever practicable, blood samples taken for HIV testing under this section shall be taken in conjunction with samples taken for DNA testing under section 706-603; provided that the HIV test results shall not be disclosed to any person other than the physician or HIV counselor designated to receive the results by the victim or the parent or the guardian of a minor or incapacitated victim.</p> <p>The HIV test results shall remain otherwise confidential and the court may fashion orders to effectuate the prohibition against dissemination of the information. The adult probation division shall not disclose the HIV test results obtained under this section through any report. The court shall not take into account the HIV test results obtained under this section for any purpose, including determination of pretrial release of defendants, trial and sentencing. The Hawaii paroling authority shall not take into account the HIV test results obtained under this section for any purpose, including determination of minimum terms of incarceration and granting or denying of parole.</p> <p>(d) The results of the charged or convicted person's HIV test shall be forwarded by the laboratory to the designated physician or HIV counselor, and shall be released by the physician, in consultation with the department of health or the HIV counselor, to the charged or convicted person and the victim or the parent or guardian of a minor or incapacitated victim. Prior to such release, the victim or the parent or guardian shall be required to sign a notice of HIV status disclosure advising them of the confidentiality provisions regarding HIV test results and the penalties for unlawful disclosure pursuant to section 325-101.</p> <p>(e) No person authorized under this paragraph to withdraw blood or assist in the performance of the HIV test, or any medical facility where the blood is drawn or tested that has been ordered by the court to withdraw or test blood, shall be liable in any civil or criminal action if the test is performed in a reasonable manner according to generally accepted medical practices.</p> <p>(f) As used in this section, unless the context requires otherwise:</p>

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	<p>"Charged person" means a person who has been charged with an offense under section 707-730, 707-731, 707-732(1)(a), 707-733.5, or 707-741, including a juvenile charged of such an offense. A person is charged when a formal complaint, information, or indictment has been accepted by the court.</p> <p>"Convicted person" means a person who has been convicted of an offense under section 707-730, 707-731, 707-732(1)(a), 707-733.5, or 707-741, including a juvenile adjudicated of such an offense. A person is convicted when a verdict or adjudication has been rendered by a judge or jury, or a plea of guilty or nolo contendere has been accepted by the court.</p> <p>"HIV counseling" means HIV counseling which conforms to the guidelines of the department of health or the Centers for Disease Control and Prevention, and includes referral for appropriate health care and support services.</p> <p>"HIV counselor" means any person who has been trained and certified in HIV counseling by the department of health or the Centers for Disease Control and Prevention and who is not a victim counselor employed by or a volunteer with any law enforcement agency.</p>
§ 325-17	<p>Quality assurance standards for HIV antibody testing</p> <p>(a) All laboratories performing screening and diagnostic tests for the presence of the antibody to HIV (Human Immunodeficiency Virus) shall follow the recommended protocols as set forth below. Any test used for other than experimental purposes shall be approved by the Food and Drug Administration (FDA) of the United States for the use to which it is put. Any initially reactive FDA-approved screening test must be confirmed by a second test of the same type. Any specimen yielding reactive results to both FDA-approved screening tests must have a supplemental test performed such as a Western Blot, an IFA (Immunofluorescence Assay), or an antigen detection assay; provided that these standards may be superseded by rules adopted by the department pursuant to chapter 91.</p> <p>(b) Any laboratory performing tests for the presence of HIV may be required by the department of health to refer a sample from any specimen yielding a reactive result to the department for the purpose of supplemental testing of some or all samples for quality assurance purposes. The department may specify the information which shall accompany the specimen for epidemiological purposes; provided that the information shall not include any personal identifiers.</p> <p>(c) The penalty for any violation of this section shall be as specified in section 325-14.</p>

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§ 325-101	<p>Confidentiality of records and information</p> <p>(a) The records of any person that indicate that a person has a human immunodeficiency virus (HIV) infection, AIDS related complex (ARC), or acquired immune deficiency syndrome (AIDS), which are held or maintained by any state agency, health care provider or facility, physician, osteopathic physician, laboratory, clinic, blood bank, third party payor, or any other agency, individual, or organization in the State shall be strictly confidential. For the purposes of this part, the term "records" shall be broadly construed to include all communication that identifies any individual who has HIV infection, ARC, or AIDS. This information shall not be released or made public upon subpoena or any other method of discovery. Notwithstanding any other provision to the contrary, release of the records protected under this part shall be permitted under the following circumstances:</p> <p>(1) Release is made to the department of health in order that it may comply with federal reporting requirements imposed on the State. The department shall ensure that personal identifying information from these records is protected from public disclosure;</p> <p>(2) Release is made of the records, or of specific medical or epidemiological information contained therein, with the prior written consent of the person or persons to whom the records pertain;</p> <p>(3) Release is made to medical personnel in a medical emergency only to the extent necessary to protect the health, life, or well-being of the named party;</p> <p>(4) Release is made from a physician or osteopathic physician licensed pursuant to chapter 453 or 460 to the department of health to inform the sexual or needle sharing contact of an HIV seropositive patient where:</p> <p>(A) There is reason for the physician or osteopathic physician to believe that the contact is or has been at risk of HIV transmission as a result of the index patient having engaged in conduct which is likely to transmit HIV; and</p> <p>(B) The index patient has first been counseled by the physician or osteopathic physician of the need for disclosure and the patient is unwilling to inform the contact directly or is unwilling to consent to the disclosure of the index patient's HIV status by the physician, the osteopathic physician, or the department of health; provided that the identity of the index patient is not disclosed; and provided further that there is no obligation to identify or locate any contact. Any determination by a physician or osteopathic physician to disclose or withhold disclosure of an index patient's sexual contacts to the department of health pursuant to this subsection which is made in good faith shall not be subject to penalties under this part or otherwise subject to civil or criminal liability for damages under the laws of the State;</p> <p>(5) Release is made by the department of health of medical or epidemiological information from the records to medical personnel, appropriate county and state agencies, blood banks, plasma centers, organ and tissue banks, schools, preschools, day care centers, or county or district courts to enforce this part and to enforce rules adopted by the department concerning the control and treatment of HIV infection, ARC,</p>

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	<p>and AIDS, or to the sexual or needle sharing contacts of an HIV seropositive index patient for purposes of contact notification as provided in paragraph (4); provided that the identity of the index patient, if known, shall not be disclosed; provided further that release of information under this paragraph shall only be made by confidential communication to a designated individual charged with compliance with this part;</p> <p>(6) Release of a child's records is made to the department of human services for the purpose of enforcing chapters 350 and 587;</p> <p>(7) Release of a child's records is made within the department of human services and to child protective services team consultants under contract to the department of human services for the purpose of enforcing and administering chapters 350 and 587 on a need to know basis pursuant to a written protocol to be established and implemented, in consultation with the director of health, by the director of human services;</p> <p>(8) Release of a child's records is made by employees of the department of human services authorized to do so by the protocol established in paragraph (7) to a natural parent of a child who is the subject of the case when the natural parent is a client in the case, the guardian ad litem of the child, the court, each party to the court proceedings, and also to an adoptive or a prospective adoptive parent, an individual or an agency with whom the child is placed for twenty-four hour residential care, and medical personnel responsible for the care or treatment of the child. When a release is made to a natural parent of the child, it shall be with appropriate counseling as required by section 325-16. In no event shall proceedings be initiated against a child's natural parents for claims of child abuse under chapter 350 or harm to a child or to affect parental rights under chapter 587 solely on the basis of the HIV seropositivity of a child or the child's natural parents;</p> <p>(9) Release is made to the patient's health care insurer to obtain reimbursement for services rendered to the patient; provided that release shall not be made if, after being informed that a claim will be made to an insurer, the patient is afforded the opportunity to make the reimbursement directly and actually makes the reimbursement;</p> <p>(10) Release is made by the patient's health care provider to another health care provider for the purpose of continued care or treatment of the patient;</p> <p>(11) Release is made pursuant to a court order, after an in camera review of the records, upon a showing of good cause by the party seeking release of the records;</p> <p>(12) Disclosure by a physician or osteopathic physician, on a confidential basis, of the identity of a person who is HIV seropositive and who also shows evidence of tuberculosis infection, to a person within the department of health as designated by the director of health for purposes of evaluating the need for or the monitoring of tuberculosis chemotherapy for the person and the person's contacts who are at risk of developing tuberculosis; or</p> <p>(13) Release is made for the purpose of complying with sections 325-16.5 and 801D-4(b). Nothing in this section shall be construed to prohibit a victim to whom information is released pursuant to section 325-16.5 from requesting the release of information by a physician, osteopathic</p>

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	<p>physician, or HIV counselor to a person with whom the victim shares a privileged relationship recognized by chapter 626; provided that prior to such release, the person to whom the information is to be released shall be required to sign a notice of HIV status disclosure advising them of the confidentiality provisions regarding HIV test results and the penalties for unlawful disclosure to any person other than a designated physician, osteopathic physician, or HIV counselor.</p> <p>As used in this part, unless the context requires otherwise:</p> <p>"Medical emergency" means any disease-related situation that threatens life or limb.</p> <p>"Medical personnel" means any health care provider in the State, as provided in section 323D-2, who deals directly or indirectly with the identified patient or the patient's contacts, and includes hospital emergency room personnel, the staff of the communicable disease division of the department of health, and any other department personnel as designated by the director.</p> <p>(b) Recording or maintaining information protected under this part in a separate portion of an individual's file which is clearly designated as confidential shall not be construed as a breach per se of that individual's confidentiality.</p> <p>(c) No person shall be compelled to consent to the release of information protected under this part or to disclose whether the person has been tested for the presence of HIV infection in order to obtain or maintain housing, employment, or education.</p> <p>(d) Any person who receives or comes into possession of any record or information released or disclosed pursuant to subsection (a) shall be subject to the same obligation of confidentiality as the party from whom the record or information was received.</p>
§ 325-102	<p>Civil penalty</p> <p>Any person or institution who willfully violates any provision of this part shall be fined not less than \$1,000 nor more than \$10,000 for each violation plus reasonable court costs and attorney's fees as determined by the court, which penalty and costs shall be paid to the person or persons whose records were released.</p>
§ 325-103	<p>Custodian of records</p> <p>No officer or employee of the department of health shall be examined in any civil, criminal, special, or other proceeding as to the existence or content of any individual's records retained by the department pursuant to this part, or as to the existence or contents of such reports received</p>

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	from any private physician or private health facility without written consent of the affected individual.
§ 325-104	<p>Responsibility to report</p> <p>Notwithstanding any other law to the contrary, no provision in this part shall be construed so as to diminish, limit, or eliminate the responsibility of any person to report HIV infection, ARC, or AIDS to the proper authorities pursuant to section 325-2.</p>
§ 325-116	<p>Reports [Needle Exchange Programs]</p> <p>The department, on or before January 1st of each year, shall submit a report to the oversight committee. The report shall include:</p> <ul style="list-style-type: none"> (1) Information as to the number of participants served and the number of needles and syringes distributed; (2) A demographic profile of the participants served, including but not limited to: age, sex, ethnicity, area of residence, occupation, types of drugs used, length of drug use, and frequency of injection; (3) Impact of the program on needle and syringe sharing and other high risk behavior; (4) Data on participants regarding HIV testing, counseling, drug treatment, and other social services, including referrals for HIV testing and counseling and for drug abuse treatment; (5) Impact on the transmission of HIV infection among injection drug users; (6) Impact on behaviors that caused participants to be at risk for HIV transmission such as frequency of drug use and needle sharing; (7) An assessment of the cost-effectiveness of the program versus direct and indirect costs of HIV infection; and (8) Information on the percentage of persons served through treatment programs for injection drug users funded through the department that were attributed to needle exchange referrals. <p>The report shall address the strengths and weaknesses of the program, the advisability of its continuation, amendments to the law, if appropriate, and other matters that may be helpful to the oversight committee in evaluating the program's efficacy.</p>

Title 24: Insurance

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§ 431:13-103	<p>Unfair methods of competition and unfair or deceptive acts or practices defined</p> <p>(a) The following are defined as unfair methods of competition and unfair or deceptive acts or practices in the business of insurance:</p> <p>(1) Misrepresentations and false advertising of insurance policies. Making, issuing, circulating, or causing to be made, issued, or circulated, any estimate, illustration, circular, statement, sales presentation, omission, or comparison which:</p> <p>(A) Misrepresents the benefits, advantages, conditions, or terms of any insurance policy;</p> <p>(B) Misrepresents the dividends or share of the surplus to be received on any insurance policy;</p> <p>(C) Makes any false or misleading statement as to the dividends or share of surplus previously paid on any insurance policy;</p> <p>(D) Is misleading or is a misrepresentation as to the financial condition of any insurer, or as to the legal reserve system upon which any life insurer operates;</p> <p>(E) Uses any name or title of any insurance policy or class of insurance policies misrepresenting the true nature thereof;</p> <p>(F) Is a misrepresentation for the purpose of inducing or tending to induce the lapse, forfeiture, exchange, conversion, or surrender of any insurance policy;</p> <p>(G) Is a misrepresentation for the purpose of effecting a pledge or assignment of or effecting a loan against any insurance policy;</p> <p>(H) Misrepresents any insurance policy as being shares of stock;</p> <p>(I) Publishes or advertises the assets of any insurer without publishing or advertising with equal conspicuousness the liabilities of the insurer, both as shown by its last annual statement; or</p> <p>(J) Publishes or advertises the capital of any insurer without stating specifically the amount of paid-in and subscribed capital;</p> <p>(2) False information and advertising generally. Making, publishing, disseminating, circulating, or placing before the public, or causing, directly or indirectly, to be made, published, disseminated, circulated, or placed before the public, in a newspaper, magazine, or other publication, or in the form of a notice, circular, pamphlet, letter, or poster, or over any radio or television station, or in any other way, an advertisement, announcement, or statement containing any assertion, representation, or statement with respect to the business of insurance or with respect to any person in the conduct of the person's insurance business, which is untrue, deceptive, or misleading;</p> <p>(3) Defamation. Making, publishing, disseminating, or circulating, directly or indirectly, or aiding, abetting, or encouraging the making, publishing, disseminating, or circulating of any oral or written statement or any pamphlet, circular, article, or literature which is false, or</p>

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	<p>maliciously critical of or derogatory to the financial condition of an insurer, and which is calculated to injure any person engaged in the business of insurance;</p> <p>(4) Boycott, coercion, and intimidation. (A) Entering into any agreement to commit, or by any action committing, any act of boycott, coercion, or intimidation resulting in or tending to result in unreasonable restraint of, or monopoly in, the business of insurance; or (B) Entering into any agreement on the condition, agreement, or understanding that a policy will not be issued or renewed unless the prospective insured contracts for another class or an additional policy of the same class of insurance with the same insurer;</p> <p>(5) False financial statements. (A) Knowingly filing with any supervisory or other public official, or knowingly making, publishing, disseminating, circulating, or delivering to any person, or placing before the public, or knowingly causing, directly or indirectly, to be made, published, disseminated, circulated, delivered to any person, or placed before the public, any false statement of a material fact as to the financial condition of an insurer; or (B) Knowingly making any false entry of a material fact in any book, report, or statement of any insurer with intent to deceive any agent or examiner lawfully appointed to examine into its condition or into any of its affairs, or any public official to whom the insurer is required by law to report, or who has authority by law to examine into its condition or into any of its affairs, or, with like intent, knowingly omitting to make a true entry of any material fact pertaining to the business of the insurer in any book, report, or statement of the insurer;</p> <p>(6) Stock operations and advisory board contracts. Issuing or delivering or permitting agents, officers, or employees to issue or deliver, agency company stock or other capital stock, or benefit certificates or shares in any common-law corporation, or securities or any special or advisory board contracts or other contracts of any kind promising returns and profits as an inducement to insurance;</p> <p>(7) Unfair discrimination. (A) Making or permitting any unfair discrimination between individuals of the same class and equal expectation of life in the rates charged for any contract of life insurance or of life annuity or in the dividends or other benefits payable thereon, or in any other of the terms and conditions of the contract; (B) Making or permitting any unfair discrimination in favor of particular individuals or persons, or between insureds or subjects of insurance having substantially like insuring, risk, and exposure factors, or expense elements, in the terms or conditions of any insurance contract, or in the rate or amount of premium charge therefor, or in the benefits payable or in any other rights or privilege accruing thereunder; (C) Making or permitting any unfair discrimination between</p>

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	<p>individuals or risks of the same class and of essentially the same hazards by refusing to issue, refusing to renew, canceling, or limiting the amount of insurance coverage on a property or casualty risk because of the geographic location of the risk, unless:</p> <p>(i) The refusal, cancellation, or limitation is for a business purpose which is not a mere pretext for unfair discrimination; or</p> <p>(ii) The refusal, cancellation, or limitation is required by law or regulatory mandate;</p> <p>(D) Making or permitting any unfair discrimination between individuals or risks of the same class and of essentially the same hazards by refusing to issue, refusing to renew, canceling, or limiting the amount of insurance coverage on a residential property risk, or the personal property contained therein, because of the age of the residential property, unless:</p> <p>(i) The refusal, cancellation, or limitation is for a business purpose which is not a mere pretext for unfair discrimination; or</p> <p>(ii) The refusal, cancellation, or limitation is required by law or regulatory mandate;</p> <p>(E) Refusing to insure, refusing to continue to insure, or limiting the amount of coverage available to an individual because of the sex or marital status of the individual; however, nothing in this subsection shall prohibit an insurer from taking marital status into account for the purpose of defining persons eligible for dependent benefits;</p> <p>(F) Terminating or modifying coverage, or refusing to issue or renew any property or casualty policy or contract of insurance solely because the applicant or insured or any employee of either is mentally or physically impaired; provided that this subparagraph shall not apply to accident and health or sickness insurance sold by a casualty insurer; provided further that this subparagraph shall not be interpreted to modify any other provision of law relating to the termination, modification, issuance, or renewal of any insurance policy or contract;</p> <p>(G) Refusing to insure, refusing to continue to insure, or limiting the amount of coverage available to an individual based solely upon the individual's having taken a human immunodeficiency virus (HIV) test prior to applying for insurance; or</p> <p>(H) Refusing to insure, refusing to continue to insure, or limiting the amount of coverage available to an individual because the individual refuses to consent to the release of information which is confidential as provided in section 325-101; provided that nothing in this subparagraph shall prohibit an insurer from obtaining and using the results of a test satisfying the requirements of the commissioner, which was taken with the consent of an applicant for insurance; provided further that any applicant for insurance who is tested for HIV infection shall be afforded the opportunity to obtain the test results, within a reasonable time after being tested, and that the confidentiality of the test results shall be maintained as provided by section 325-101;</p> <p>(8) Rebates. Except as otherwise expressly provided by law:</p> <p>(A) Knowingly permitting or offering to make or making any contract of insurance, or agreement as to the contract other than as plainly</p>

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	<p>expressed in the contract, or paying or allowing, or giving or offering to pay, allow, or give, directly or indirectly, as inducement to the insurance, any rebate of premiums payable on the contract, or any special favor or advantage in the dividends or other benefits, or any valuable consideration or inducement not specified in the contract; or</p> <p>(B) Giving, selling, or purchasing, or offering to give, sell, or purchase as inducement to the insurance or in connection therewith, any stocks, bonds, or other securities of any insurance company or other corporation, association, or partnership, or any dividends or profits accrued thereon, or anything of value not specified in the contract;</p> <p>(9) Nothing in paragraph (7) or (8) shall be construed as including within the definition of discrimination or rebates any of the following practices:</p> <p>(A) In the case of any contract of life insurance or life annuity, paying bonuses to policyholders or otherwise abating their premiums in whole or in part out of surplus accumulated from nonparticipating insurance; provided that any bonus or abatement of premiums shall be fair and equitable to policyholders and in the best interests of the insurer and its policyholders;</p> <p>(B) In the case of life insurance policies issued on the industrial debit plan, making allowance to policyholders who have continuously for a specified period made premium payments directly to an office of the insurer in an amount which fairly represents the saving in collection expense;</p> <p>(C) Readjustment of the rate of premium for a group insurance policy based on the loss or expense experience thereunder, at the end of the first or any subsequent policy year of insurance thereunder, which may be made retroactive only for the policy year; and</p> <p>(D) In the case of any contract of insurance, the distribution of savings, earnings, or surplus equitably among a class of policyholders, all in accordance with this article;</p> <p>(10) Refusing to provide or limiting coverage available to an individual because the individual may have a third-party claim for recovery of damages; provided that:</p> <p>(A) Where damages are recovered by judgment or settlement of a third-party claim, reimbursement of past benefits paid shall be allowed pursuant to section 663-10;</p> <p>(B) This paragraph shall not apply to entities licensed under chapter 386 or 431:10C; and</p> <p>(C) For entities licensed under chapter 432 or 432D:</p> <p>(i) It shall not be a violation of this section to refuse to provide or limit coverage available to an individual because the entity determines that the individual reasonably appears to have coverage available under chapter 386 or 431:10C; and</p> <p>(ii) Payment of claims to an individual who may have a third-party claim for recovery of damages may be conditioned upon the individual first signing and submitting to the entity documents to secure the lien and reimbursement rights of the entity and providing information reasonably related to the entity's investigation of its liability for coverage.</p>

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	<p>Any individual who knows or reasonably should know that the individual may have a third-party claim for recovery of damages and who fails to provide timely notice of the potential claim to the entity, shall be deemed to have waived the prohibition of this paragraph against refusal or limitation of coverage. "Third-party claim" for purposes of this paragraph means any tort claim for monetary recovery or damages that the individual has against any person, entity, or insurer, other than the entity licensed under chapter 432 or 432D;</p> <p>(11) Unfair claim settlement practices. Committing or performing with such frequency as to indicate a general business practice any of the following:</p> <p>(A) Misrepresenting pertinent facts or insurance policy provisions relating to coverages at issue;</p> <p>(B) With respect to claims arising under its policies, failing to respond with reasonable promptness, in no case more than fifteen working days, to communications received from:</p> <p>(i) The insurer's policyholder;</p> <p>(ii) Any other persons, including the commissioner; or</p> <p>(iii) The insurer of a person involved in an incident in which the insurer's policyholder is also involved.</p> <p>The response shall be more than an acknowledgment that such person's communication has been received, and shall adequately address the concerns stated in the communication;</p> <p>(C) Failing to adopt and implement reasonable standards for the prompt investigation of claims arising under insurance policies;</p> <p>(D) Refusing to pay claims without conducting a reasonable investigation based upon all available information;</p> <p>(E) Failing to affirm or deny coverage of claims within a reasonable time after proof of loss statements have been completed;</p> <p>(F) Failing to offer payment within thirty calendar days of affirmation of liability, if the amount of the claim has been determined and is not in dispute;</p> <p>(G) Failing to provide the insured, or when applicable the insured's beneficiary, with a reasonable written explanation for any delay, on every claim remaining unresolved for thirty calendar days from the date it was reported;</p> <p>(H) Not attempting in good faith to effectuate prompt, fair, and equitable settlements of claims in which liability has become reasonably clear;</p> <p>(I) Compelling insureds to institute litigation to recover amounts due under an insurance policy by offering substantially less than the amounts</p>

HI Title 24 Code §	Code Language
	<p>ultimately recovered in actions brought by the insureds;</p> <p>(J) Attempting to settle a claim for less than the amount to which a reasonable person would have believed the person was entitled by reference to written or printed advertising material accompanying or made part of an application;</p> <p>(K) Attempting to settle claims on the basis of an application which was altered without notice, knowledge, or consent of the insured;</p> <p>(L) Making claims payments to insureds or beneficiaries not accompanied by a statement setting forth the coverage under which the payments are being made;</p> <p>(M) Making known to insureds or claimants a policy of appealing from arbitration awards in favor of insureds or claimants for the purpose of compelling them to accept settlements or compromises less than the amount awarded in arbitration;</p> <p>(N) Delaying the investigation or payment of claims by requiring an insured, claimant, or the physician of either to submit a preliminary claim report and then requiring the subsequent submission of formal proof of loss forms, both of which submissions contain substantially the same information;</p> <p>(O) Failing to promptly settle claims, where liability has become reasonably clear, under one portion of the insurance policy coverage to influence settlements under other portions of the insurance policy coverage;</p> <p>(P) Failing to promptly provide a reasonable explanation of the basis in the insurance policy in relation to the facts or applicable law for denial of a claim or for the offer of a compromise settlement; and</p> <p>(Q) Indicating to the insured on any payment draft, check, or in any accompanying letter that the payment is "final" or is "a release" of any claim if additional benefits relating to the claim are probable under coverages afforded by the policy; unless the policy limit has been paid or there is a bona fide dispute over either the coverage or the amount payable under the policy;</p> <p>(12) Failure to maintain complaint handling procedures. Failure of any insurer to maintain a complete record of all the complaints which it has received since the date of its last examination under section 431:2-302. This record shall indicate the total number of complaints, their classification by line of insurance, the nature of each complaint, the disposition of these complaints, and the time it took to process each complaint. For purposes of this section, "complaint" means any written communication primarily expressing a grievance; and</p>

HI Title 24 Code §	Code Language
	(13) Misrepresentation in insurance applications. Making false or fraudulent statements or representations on or relative to an application for an insurance policy, for the purpose of obtaining a fee, commission, money, or other benefit from any insurer, producer, or individual.

Title 31: Family

HI Title 19 Code §	Code Language
§ 572-5	<p>Marriage license; agent to grant; fee</p> <p>(a) The department of health shall appoint, and at its pleasure remove, one or more suitable persons as agents authorized to grant marriage licenses under this chapter in each judicial circuit. The agents may issue licenses from any state facility when deemed necessary by the director. Any agent appointed under this subsection and receiving an application for a marriage license shall collect from the applicant for the license \$60, of which the agent, except those provided for in subsection (b), shall retain \$9 for the agent's benefit and compensation and shall remit \$51 to the director of health. Upon the receipt of remittances under this subsection, the director of health shall deposit:</p> <ol style="list-style-type: none"> (1) \$32 for each license issued to the credit of the general fund of the State; (2) \$4.50 for each license issued to the credit of the spouse and child abuse special account established under section 346-7.5; (3) \$4.50 for each license issued to the credit of the spouse and child abuse special account established under section 601-3.6; and (4) \$10 for each license issued to the credit of the Hawaii birth defects special fund established under section 321-426. <p>(b) The department may appoint, as regular employees under the civil service and classification laws, the number of suitable persons as agents authorized to grant marriage licenses for whom provision has been made in the general appropriation act. In the case of these agents, the full amount collected from applicants shall be remitted to the director of health. Upon the receipt of remittances under this subsection, the director of health shall deposit:</p> <ol style="list-style-type: none"> (1) \$41 for each license issued to the credit of the general fund of the State; (2) \$4.50 for each license issued to the credit of the spouse and child abuse special account established under section 346-7.5; (3) \$4.50 for each license issued to the credit of the spouse and child abuse special account established under section 601-3.6; and (4) \$10 for each license issued to the credit of the Hawaii birth defects special fund established under [section] 321-426. <p>(c) Every agent appointed under this section may administer the oaths required by this chapter to be taken.</p> <p>(d) The department or its authorized agents shall furnish to each applicant for a marriage license a brochure explaining rubella, the risks of infection with rubella during pregnancy, and how to seek testing and immunization. The department or its authorized agents shall also furnish to each applicant for a marriage license information, to be provided by the department, relating to population stabilization, family planning, birth control, fetal alcohol and drug syndromes, and acquired immune deficiency syndrome (AIDS), including the availability of anonymous testing for HIV infection at</p>

HI Title 19 Code §	Code Language
	alternate test site; provided that such information is available.
§ 577A-2	<p>Consent valid.</p> <p>The consent to the provision of medical care and services by public and private hospitals or public and private clinics, or the performance of medical care and services by a physician licensed to practice medicine, when executed by a female minor who is or professes to be pregnant, or by a minor who is or professes to be afflicted with a venereal disease, or a minor seeking family planning services shall be valid and binding as if the minor had achieved his or her majority as the case may be; that is, a female minor who is, or professes to be pregnant, or a minor who is, or professes to be afflicted with a venereal disease, or a minor seeking family planning services shall be deemed to have, and shall have the same legal capacity to act, and the same legal obligations with regard to the giving of such consent to such hospitals and such clinics or medical care and services to be provided by a physician licensed to practice medicine, as a person of full legal age and capacity, the infancy of the minor and any contrary provisions of law notwithstanding, and such consent shall not be subject to later disaffirmance by reason of such minority; and the consent of no other person or persons (including, but not limited to a spouse, parent, custodian, or guardian) shall be necessary in order to authorize such hospitals or such clinics or medical care and services provided by a physician licensed to practice medicine, to such a minor.</p>

Title 38: Procedural and Supplementary Provisions
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HI Title 38 Code §	Code Language
§ 801D-4	<p>Basic bill of rights for victims and witnesses</p> <p>(a) Upon written request, victims and surviving immediate family members of crime shall have the following rights:</p> <p>(1) To be informed by the police and the prosecuting attorney of the final disposition of the case. If the crime charged is a felony, the victim or a surviving immediate family member shall be notified of major developments in the case and whenever the defendant or perpetrator is released from custody. The victim or a surviving immediate family member shall also be consulted and advised about plea bargaining by the prosecuting attorney;</p> <p>(2) To be notified by the prosecuting attorney if a court proceeding to which they have been subpoenaed will not proceed as scheduled;</p> <p>(3) To receive protection from threats or harm;</p> <p>(4) To be informed by the police, victim/witness counselor, or other criminal justice personnel, of financial assistance and other social services available as a result of being a witness to or a victim of crime, including information on how to apply for the assistance and services;</p> <p>(5) To be provided by the court, whenever possible, with a secure waiting area during court proceedings that does not require them to be in close proximity to defendants and families and friends of defendants;</p> <p>(6) To have any stolen or other personal property expeditiously returned by law enforcement agencies when the property is no longer needed as evidence. If feasible, all the property, except weapons, currency, contraband, property subject to evidentiary analysis, and property, the ownership of which is disputed, shall be returned to the person within ten days of being taken; and</p> <p>(7) To be informed by the department of public safety of changes planned by the department in the custodial status of the offender that allows or results in the release of the offender into the community, including escape, furlough, work release, placement on supervised release, release on parole, release on bail bond, release on appeal bond, and final discharge at the end of the prison term.</p> <p>(b) Upon written request, the victim or the parent or guardian of a minor or incapacitated victim of an offense under section 707-730, 707-731, or 707-732(1)(a) shall have the right to be informed of the human immunodeficiency virus (HIV) status of the person who has been convicted or a juvenile who has been adjudicated under that section and to receive counseling regarding HIV. The testing shall be performed according to the protocols set forth in section 325-17. Upon request of the victim, or the parent or guardian of a minor or incapacitated victim, the department of health shall provide counseling.</p> <p>(c) Notwithstanding any law to the contrary, the department of public safety, the Hawaii paroling authority, the judiciary probation divisions and branches, and the department of the attorney general shall make good faith efforts to notify the victim of a crime, or surviving immediate family</p>

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	<p>members of a victim, of income received by a person imprisoned for that crime when the imprisoned person has received a civil judgment that exceeds \$10,000, a civil settlement that exceeds \$10,000, or any income that exceeds \$10,000 in one fiscal year, whenever the income is known to the agency, and, in addition, the department of public safety shall make good faith efforts to notify the victim of a crime or surviving immediate family members of a victim, whenever it is known to the agency that a person imprisoned for that crime has a financial account, of which the department of public safety is aware, of a value exceeding \$10,000.</p> <p>(d) Notwithstanding any law to the contrary, payment of restitution and judgments to victims, or surviving immediate family members of a victim, shall be a precondition for release on parole for any imprisoned person whom the Hawaii paroling authority determines has the financial ability to make complete or partial restitution payments or complete or partial judgment payments to the victim of the person's crime, or to the surviving immediate family members of a victim.</p> <p>(e) Notwithstanding any law to the contrary, the State of Hawaii, any political subdivision of the State of Hawaii, any department or agency of the State, any officer of the State, and any employee of the State shall be immune from damages in any lawsuit based on noncompliance with subsection (c) or (d). Nothing in this subsection shall be construed to prevent disciplinary action against any employee of the State who intentionally fails to comply with subsection (c) or (d) after being warned that compliance is required.</p>

Hawaii Administrative Rules – Title 11: Department of Health

Title 11 HAR	Code Language
§11-156-8.8	<p>Provider reporting of HIV infection.</p> <p>(a) Each health care provider shall report to the department within 7 days of receipt of the first positive HIV test result for each patient whose specimen is submitted for testing or whose positive HIV test result is reported to the provider. This reporting requirement is in addition to any AIDS reporting requirement based on AIDS case diagnostic criteria.</p> <p>(b) No report to the department from a health care provider shall include the name of the patient if the name and birth date of the patient are available to the provider for creation of a UTC (unnamed test code).</p> <p>(c) Except as provided in subsections (f), (g), and (h), each report to the department from a provider who orders or receives a diagnostic laboratory test indicating the presence of HIV infection shall include:</p> <ol style="list-style-type: none"> (1) The name of the laboratory to which the test was submitted and the date of submission; (2) The UTC created with a form or algorithm supplied by the department; and (3) Demographic and clinical information known to or available to the provider. <p>(d) Except as provided in subsection (f), (g), or (h), each order for a laboratory test which could yield a positive HIV test result shall include the name and address of the provider and either:</p> <ol style="list-style-type: none"> (1) the UTC of the patient, or (2) the name and date of birth of the patient. <p>(e) Although the provider may create the UTC or have the patient complete the UTC, the provider shall be responsible for verifying the accuracy of the UTC.</p> <p>(f) Tests which are paid for by the department as part of a confidential testing program may be submitted to the laboratory and reported to the physician, the program, and the department with coded identifiers furnished or authorized by the department, rather than a UTC.</p> <p>(g) Tests which are paid for by a bona fide clinical trial agency may be submitted to the laboratory and reported to the clinical trial agency and the department using coded identifiers furnished by the agency, rather than a UTC.</p> <p>(h) Tests which are conducted pursuant to the requirements of chapter 12-205, Hawaii Administrative Rules ("Biological Agents/bloodborne Pathogens") or 29 C.F.R. 1910.1030 ("Bloodborne Pathogens") may be submitted to the laboratory accompanied by a signed statement of a licensed physician stating, "This specimen is being tested to determine the HIV status of a source of an occupational</p>

Title 11 HAR	Code Language
	<p>exposure," rather than a UTC.</p> <p>(i) Each provider shall maintain and securely store copies of all Provider HIV Report Forms submitted to the department and all laboratory test reports ordered or received by the provider indicating HIV infection, and shall make these records available for inspection by an authorized representative of the director. [Eff and comp 8/27/01] (Auth: HRS §§321-9, 325-13, 325-55) (Imp: HRS §§325-1, 325-2, 325-3, 325-4, 325-101, 325-104)</p>
§11-156-8.9	<p>Laboratory reporting of HIV infection.</p> <p>(a) Each laboratory shall report the result of each positive HIV test result to the department.</p> <p>(b) No report to the department shall include the name of the patient if the order for the test is accompanied by the name and address of the provider and one of the following:</p> <ol style="list-style-type: none"> (1) The UTC of the patient; (2) The name and date of birth of the patient; (3) A coded identifier furnished or authorized by the department for use with a test paid for by the department; (4) a coded identifier furnished or authorized as part of a bona fide clinical trial for use with a test ordered and paid for by the clinical trial agency; or (5) a signed statement of a licensed physician stating, "This specimen is being tested to determine the HIV status of a source of an occupational exposure." <p>(c) If the order for the test is accompanied by a UTC or coded identifier authorized by subsection (b), the laboratory report to the department shall include the UTC or coded identifier, the laboratory accession or index number, the name and address of the provider, and the name, date, and results of the test(s).</p> <p>(d) If the order for the test is accompanied by the name and date of birth of the person who is being tested, the laboratory shall create the UTC using the name and date of birth of the patient and the algorithm supplied by the department.</p> <p>(e) If the order for the test is accompanied by a signed statement of a physician as provided in subsection (b)(5), the laboratory report to the department shall include the laboratory accession or index number, the name and address of the provider, a statement indicating that the test was conducted to determine the status of a source patient, and the name, date, and results of the test(s).</p> <p>(f) If an order for a test which could yield a positive HIV test result is not accompanied by the information specified in subsection (b), the laboratory shall submit photocopies of the laboratory test order and report of test results to the department.</p>

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	<p>(f) Each laboratory shall implement special security measures to ensure that any linkages created by the laboratory of names, birth dates, and UTCs are accessible only to specified staff who create and report HIV infection test results to the department.</p> <p>(g) Reports shall be submitted to the department within thirty-five days of test results being available to the laboratory. [Eff and comp 8/27/01] (Auth: HRS §§321-9, 325-13, 325-55) (Imp: HRS §§321-11, 325-2, 325-3, 325-4, 325-101, 325-104)</p>