

# Louisiana

## Introduction and Table of Contents

April 8, 2011

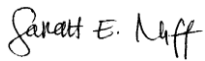
To the Reader:

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](mailto:neffs@nccc.ucsf.edu).

Thank you,



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&



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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

April 8, 2011

### 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.<sup>1</sup>
  - **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.<sup>1</sup>
- **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.<sup>2</sup>
- **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.<sup>1</sup>
- **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.<sup>3</sup>
- **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](mailto:neffs@nccc.ucsf.edu)

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

<sup>1</sup> 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>

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

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

# Louisiana

## A Quick Reference Guide for Clinicians to Louisiana HIV Testing Laws

April 8, 2011

This Quick Reference Guide for clinicians is a summary of relevant Louisiana 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 Louisiana HIV testing laws, please refer to the section of the Compendium that follows this Quick Reference Guide.

### Informed Consent

- Informed consent is required and through the opt-out process. HIV testing is included in general medical consent.

### Counseling

- No specific provisions regarding counseling were found.

### Provisos of Testing

- **Anonymous**
  - Testing must be available anonymously.
- **Rapid**
  - No specific provisions regarding rapid testing were found.
- **Routine**
  - Diagnostic HIV testing may be offered to a person as part of a routine medical screening in health care settings, substance abuse treatment facilities, mental health treatment facilities, and correctional settings.

### Disclosure

- No specific provisions regarding the notification of partners or contacts were found.

### Minor/Adolescent Testing

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

## **Louisiana**

### ***Perinatal Quick Reference Guide:***

#### **A Guide to Louisiana Perinatal HIV Testing Laws for Clinicians**

April 8, 2011

This Perinatal Quick Reference Guide for clinicians is a summary of relevant Louisiana 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 Louisiana HIV testing laws, please refer to the corresponding section of the *State HIV Testing Laws Compendium* ([www.nccc.ucsf.edu](http://www.nccc.ucsf.edu)), “Testing of pregnant women and/or newborns.”

#### **Prenatal**

- Testing of pregnant women in prenatal care is through the opt-out process.
- Blood sample must be taken by a duly licensed physician if person attending pregnant woman is not permitted by law to take blood samples.

#### **Labor & Delivery**

- Testing of pregnant women at delivery is through the opt-out process.
- Blood sample must be taken by a duly licensed physician if person attending pregnant woman is not permitted by law to take blood samples.

#### **Neonatal**

- Infants tested for HIV if suspected and parents consent for general treatment and care.

#### **Other**

- N/A

# Louisiana State Policies Relating to HIV Testing, 2011

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### Louisiana Revised Statutes [RS]

**Title 5: Arrest**..... Pages 3-5  
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**Title 40: Public Health and Safety**..... Pages 11-24

**Children’s Code [CHC]**..... Page 25

	Policy Category	Type	Section Code(s)
RESTRICTIONS/MANDATES	Restrictions on use of HIV test	No related laws found	
	Mandatory testing within the criminal justice system	Persons charged with a sex offense	13 RS §499
		Persons convicted or adjudicated a delinquent for a sexual offense as ordered by the court	15 RS §535
		Persons (including juveniles) accused for a sexual offense if requested by the victim (no later than 48 hours after the date of indictment)	15 RS §535 CHC § 908.1
		Occupational exposure – law enforcement officers	5 RS §221 5 RS §222
		Inmate testing in cases of exposure	15 RS §739
		Parole eligibility	15 RS §574.4
	Mandatory testing outside of the criminal justice system	Semen donations	40 RS §1062.1
Blood and tissue donations		40 RS §1299.142 40 RS §1299.143	
PRE-TESTING	Mandatory offering of HIV/AIDS information and/or testing	Pre-test explanation of HIV and testing required for informed consent	40 RS §1300.13
	Informed consent	General informed consent –opt-out, written or verbal, must be documented	40 RS §1300.13

	Counseling requirements	Mandatory post-test counseling for inmates who test positive for HIV	15 RS §739
		Mandatory AIDS counseling for persons convicted of prostitution	14 RS §82
	Anonymous testing	All testing must be available anonymously, either on-site or by referral	40 RS §1300.13
POST-TEST	Disclosure/confidentiality	HIV test results confidential	40 RS §1300.14
		Exceptions to confidentiality	40 RS §1300.14 40 RS §1300.15
		Disclosure to person treating or transporting the patient	40 RS §1099
		Court orders may allow access to confidential test results	40 RS §1300.15
	Reporting	No related laws found	
OTHER	Testing of pregnant women and/or newborns	Infants tested for HIV if suspected and parents consent for general treatment and care	CHC §1153
		Opt-out testing for prenatal care and at delivery by physicians; Blood sample must be taken by a duly licensed physician if person attending pregnant woman is not permitted by law to take blood samples	40 RS §1091
	Testing of minors/adolescents	Minors may consent to treatment for venereal disease	40 RS §1065.1
	Rapid HIV testing	No related laws found	
	Training and education of health care providers	No related laws found	

### Recommended Resources

#### Louisiana State Legislature

<http://www.legis.state.la.us/>

#### Louisiana Administrative Code

<http://www.state.la.us/osr/lac/books.htm>

#### Louisiana Department of Health and Hospitals

<http://www.dhh.state.la.us/>

<b>Title 5: Arrest</b>
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LA Title 5 Code §	Code Language
§ 221	<p><b>Blood and saliva testing</b></p> <p>A. (1) Following arrest if an offender is charged by bill of information or indicted by a grand jury for intentionally exposing a police officer to AIDS virus as defined in <a href="#">R.S. 14:43.5</a>, or battery upon a police officer as defined in <a href="#">R.S. 14:34.2</a>, the police officer may be tested to determine whether the police officer is infected with a sexually transmitted disease, or is infected with acquired immune deficiency syndrome (AIDS), the human immunodeficiency virus (HIV), HIV-1 antibodies, or any other probable causative agent of AIDS, or other infectious disease resulting from this exposure, or viral hepatitis.</p> <p>(2) For purposes of this Article, "police officer" means a commissioned police officer, sheriff, deputy sheriff, marshal, deputy marshal, correctional officer, constable, wildlife enforcement agent, and probation and parole officer.</p> <p>B. (1) If testing is requested by the police officer, as provided in Paragraph A of this Article, the testing shall be performed at a state hospital or other facility as determined by the Department of Health and Hospitals or as provided by law.</p> <p>(2) If the police officer tested under the provisions of this Paragraph tests positive for AIDS, HIV, HIV-1 antibodies, or any other probable causative agent of AIDS, viral hepatitis, or other infectious disease, the police officer, upon request, shall be provided with the following services:</p> <p>(a) Counseling regarding HIV, viral hepatitis, or other infectious disease.</p> <p>(b) Referral to appropriate health care and support services. These services shall be provided in accordance with applicable state law and the regulations governing the specific programs under which the services are to be provided.</p> <p>(3) The cost associated with this testing and services shall be paid by the employing law enforcement agency of the police officer. The agency may seek reimbursement for these expenses from the offender.</p> <p>C. (1) If the police officer tested under the provisions of Paragraph B tests positive for AIDS, HIV, HIV-1 antibodies, or any other probable causative agent of AIDS, viral hepatitis, or other infectious disease, then the offender who may have exposed the officer shall submit to a test designed to determine whether the offender is infected with a sexually transmitted disease, or is infected with acquired immune deficiency syndrome (AIDS), the human immunodeficiency virus (HIV), HIV-1 antibodies, or any other probable causative agent of AIDS, viral hepatitis, or other infectious disease.</p> <p>(2) The procedure or test shall be performed by a qualified physician or other qualified person who shall report any positive result to the chief administrator of the jail or correctional facility, if the offender is incarcerated, and shall also notify the offender, regardless of the results. If the offender is incarcerated, the test may be administered at the place of</p>

LA Title 5 Code §	Code Language
	<p>incarceration or the offender may be transferred to an appropriate testing facility and returned to incarceration following the testing procedure.</p> <p>(3) If the offender tested under the provisions of this Paragraph tests positive for AIDS, HIV, HIV-1 antibodies, or any other probable causative agent of AIDS, viral hepatitis, or other infectious disease, upon request, he shall be provided with the following services:</p> <p>(a) Counseling regarding HIV, viral hepatitis, or other infectious disease.</p> <p>(b) Referral to appropriate health care and support services. These services shall be provided in accordance with applicable state law and the regulations governing the specific programs under which the services are to be provided.</p> <p>(4) The costs associated with this testing shall be paid by the offender.</p>
§ 222	<p><b>Blood and saliva testing; expedited, nonincriminating procedure</b></p> <p>A. Any person who commits any act which exposes a law enforcement officer to a serious infectious disease by any means resulting in contact with the officer during the course and scope of an arrest for any offense shall be required to submit within seventy-two hours of the exposure to a test designed to determine whether he is infected with a sexually transmitted disease, acquired immune deficiency syndrome (AIDS), the human immunodeficiency virus (HIV), HIV-1 antibodies, any other probable causative agent of AIDS, viral hepatitis, or any other serious infectious disease.</p> <p>B. Any law enforcement officer who believes he has been the victim of an act which has exposed him to a serious infectious disease as provided in Paragraph A of this Article shall notify by affidavit, subject to penalty for false swearing, the criminal district court that the exposure has occurred. The court may order the testing, as provided in this Article.</p> <p>C. The court shall include in its order the designation of an appropriate facility for the procedure and shall require that the result be reported to the court. The court shall provide the results to the law enforcement officer and the alleged offender and shall provide them to health authorities in accordance with law.</p> <p>D. The state shall not use the fact that the medical procedure or test was performed on the alleged offender under this Article, or the results thereof, in any criminal proceeding arising out of the alleged offense.</p> <p>E. For purposes of this Article:</p> <p>(1) "Law enforcement officer" means a commissioned police officer, sheriff, deputy sheriff, marshal, deputy marshal, correctional officer, constable, wildlife enforcement agent, probation and parole officer, or any officer of the court.</p> <p>(2) "Act" is spitting, biting, or scratching, or the throwing of blood or other bodily substances by any means.</p>



<b>LA Title 5 Code §</b>	<b>Code Language</b>
	<p>F. The costs associated with testing as authorized by this Article shall be paid by the offender.</p> <p>G. If the person tested under the provisions of this Article tests positive for a sexually transmitted disease, AIDS, HIV, HIV-1 antibodies, any other probable causative agent of AIDS, viral hepatitis, or any other serious infectious disease, the court shall inform that person of available counseling, health care, and support services.</p>

**Title 13: Indictment and Information**

<b>LA Title 5 Code §</b>	<b>Code Language</b>
§ 499	<p><b>Release conditioned on AIDS testing</b></p> <p>A. A person indicted by a grand jury for a sexual offense as defined in <a href="#">R.S. 14:42</a> through 43.4 shall, at the direction of the court, undergo a medical procedure or test designed to determine or aid in determining whether the person has a sexually transmitted disease, or is infected with the acquired immune deficiency syndrome (AIDS) virus, the human immunodeficiency virus (HIV-1) infection, any antibodies to such viruses, or with any other probable causative agent of AIDS.</p> <p>B. The court shall include in its order the designation of an appropriate facility for the procedure, and shall require that the result be reported to the court. The court may in its discretion provide the results to the victim of the offense, and shall provide them to health authorities in accordance with law.</p> <p>C. The state shall not use the fact that the medical procedure or test was performed on the alleged offender under this Article, or the results thereof, in any criminal proceeding arising out of the alleged offense.</p>

<b>Title 14: Criminal Law</b>
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LA Title 14 Code §	Code Language
§ 82	<p><b>Prostitution; definition; penalties; enhancement</b></p> <p>A. Prostitution is:</p> <p>(1) The practice by a person of indiscriminate sexual intercourse with others for compensation.</p> <p>(2) The solicitation by one person of another with the intent to engage in indiscriminate sexual intercourse with the latter for compensation.</p> <p>B. (1) Whoever commits the crime of prostitution shall be fined not more than five hundred dollars or be imprisoned for not more than six months, or both.</p> <p>(2) On a second conviction, the offender shall be fined not less than two hundred fifty dollars nor more than two thousand dollars or be imprisoned, with or without hard labor, for not more than two years, or both.</p> <p>(3) On a third and subsequent conviction the offender shall be imprisoned, with or without hard labor, for not less than two nor more than four years and shall be fined not less than five hundred dollars nor more than four thousand dollars.</p> <p>C. Any offense under this Section committed more than five years prior to the commission of the offense with which the defendant is charged shall not be considered in the assessment of penalties under this Section.</p> <p>D. If the offense occurred as a result of a solicitation by the offender while the offender was located on a public road or highway, or the sidewalk, walkway, or public servitude thereof, the court shall sentence the offender to imprisonment for a minimum of ninety days. If a portion of the sentence is suspended, the court may place the offender upon supervised probation if the offender agrees, as a condition of probation, to perform two hundred forty hours of community service work collecting or picking up litter and trash on the public roads, streets, and highways, under conditions specified by the court.</p> <p>E. All persons who are convicted of the offense of prostitution shall be referred to the parish health unit for counseling concerning Acquired Immune Deficiency Syndrome. The counseling shall be provided by existing staff of the parish health unit whose duties include such counseling.</p> <p>F. Repealed by Acts 2001, No. 944, § 4.</p>

<b>Title 15: Criminal Procedure</b>
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LA Title 15 Code §	Code Language
§ 535	<p><b>Blood and saliva testing; AIDS and sexually transmitted diseases; victim's testing and services</b></p> <p>A. When a sexual offender is convicted, the court shall order and direct the offender to submit to a blood and saliva test, to be made by qualified physicians or other qualified persons, under such restrictions and direction as the court deems proper.</p> <p>B. The test must include chemical testing of his blood to determine its genetic markers and of his saliva to determine its secretor status. The court shall order that the results of the test be submitted to the Louisiana Bureau of Criminal Identification and Information.</p> <p>C. (1) The court shall also order the person convicted of or adjudicated a delinquent for a sexual offense as defined in <a href="#">R.S. 14:42</a> through 43.3 to submit to a test designed to determine whether the person is infected with a sexually transmitted disease, or is infected with acquired immune deficiency syndrome (AIDS), the human immuno deficiency virus (HIV), HIV-1 antibodies, or any other probable causative agent of AIDS. The procedure or test shall be performed by a qualified physician or other qualified person who shall report any positive result to the Department of Public Safety and Corrections, make the notification of the test results to the victim of the alleged offense, and notify the victim or the parent or custodian of the victim of the offense, regardless of the results.</p> <p>(2)(a) At the request of the victim, the court shall order the person against whom a bill of information or indictment for a sexual offense as defined in R.S. 14:42 through 43.3 to submit, not later than forty-eight hours after the date on which such bill of information or indictment is presented, to a test designed to determine whether the person is infected with a sexually transmitted disease or is infected with acquired immune deficiency syndrome (AIDS), the human immuno deficiency virus (HIV), HIV-1 antibodies, or any other probable causative agent of AIDS.</p> <p>(b) The victim may request that the person against whom a bill of information nor indictment for a sexual offense as defined in R.S. 14:42 through 43.3 to submit to a follow-up test to determine whether the person is infected with a sexually transmitted disease or is infected with acquired immune deficiency syndrome (AIDS), the human immuno deficiency virus (HIV), HIV-1 antibodies, or any other probable causative agent of AIDS. Upon a finding that the follow-up test is medically appropriate, the court shall order that such person submit to the test.</p> <p>(c) Any test, pursuant to this Paragraph, shall be performed by a qualified physician or other qualified person. Test results shall be disclosed to the victim and to the person against whom a bill of information or indictment for a sexual offense as defined in R.S. 14:42 through 43.3. If the victim consents, the test results shall be disclosed to anyone authorized by the victim. The test results shall not be disclosed to the court.</p>

LA Title 15 Code §	Code Language
	<p>D. If the offender tested under the provisions of Subsection C of this Section tests positive for AIDS, HIV, HIV-1 antibodies, or any other probable causative agent of AIDS, the victim shall be provided with HIV testing, if such testing is requested by the victim, or in the case of a minor, by the victim's parent or legal custodian, at a state hospital or other facility as determined by the Department of Health and Hospitals or as provided by law. If the victim tested under the provisions of this Subsection tests positive for AIDS, HIV, HIV-1 antibodies, or any other probable causative agent of AIDS, the victim shall, upon request, be provided with all of the following services:</p> <ol style="list-style-type: none"> <li>(1) Counseling regarding HIV disease.</li> <li>(2) Referral to appropriate health care and support services. These services shall be provided in accordance with applicable state law and the regulations governing the specific programs under which the services are to be provided.</li> </ol>
§ 574.4	<p><b>Parole; eligibility; consideration and hearings; decisions of board; nature, order, and conditions; rules of conduct; offenders convicted of crimes of violence; infectious disease testing</b></p> <p>R. (1) Before placing a person on parole, the Board of Parole shall require that person to submit to a test designed to determine whether he is infected with a sexually transmitted disease, acquired immune deficiency syndrome (AIDS), the human immunodeficiency virus (HIV), HIV-1 antibodies, or any other probable causative agent of AIDS, and viral hepatitis.</p> <p>(2) The procedure or test shall be performed by a qualified physician or other qualified person who shall notify the parolee of the test results.</p> <p>(3) If the person tested under the provisions of this Subsection tests positive for a sexually transmitted disease, AIDS, HIV, HIV-1 antibodies, or any other probable causative agent of AIDS, and viral hepatitis, he shall be referred to the appropriate health care and support services. If the person tested positive, the granting of the parole shall be conditioned upon the person seeking advice and counseling from the appropriate health care and support services. Failure to seek or follow that advice shall result in the revocation of that person's parole.</p> <p>(4) The costs associated with this testing shall be paid by the person tested.</p> <p>(5) The provisions of this Subsection shall not apply to inmates released because of diminution of sentence under <a href="#">R.S. 15:571.3</a>.</p>
§ 739	<p><b>Inmate blood and saliva testing</b></p> <p>A. (1) Any incarcerated prisoner, whether before trial, during trial, pending appeal, or after final conviction, who is housed in any jail, prison, correctional facility, juvenile institution, temporary holding center, or</p>

LA Title 15 Code §	Code Language
	<p>detention facility within the state and who bites another person; spits or throws feces, urine, blood, saliva, or any other form of human waste, or bodily fluid directly on another person; or causes through contact, bleeding, or exposure of flesh of another person in such a manner that the contact may cause the other person to contract an infectious disease, shall submit to a test designed to determine whether the incarcerated prisoner is infected with a sexually transmitted disease, or acquired immune deficiency syndrome (AIDS), the human immunodeficiency virus (HIV), HIV-1 antibodies, or any other probable causative agent of AIDS, viral hepatitis, or other infectious disease. Each incarcerated prisoner who is involved in an incident shall be deemed to be an offender and shall be subject to testing.</p> <p>(2) The procedure or test shall be performed by a qualified physician or other qualified person who shall report any positive result to the chief administrator of the jail or correctional facility, if the offender is incarcerated, and shall also notify the offender, regardless of the results. If the offender is incarcerated, the test may be administered at the place of incarceration or the offender may be transferred to an appropriate testing facility and returned to incarceration following the testing procedure.</p> <p>B. (1) If the offender tested under the provisions of Subsection A tests positive for a sexually transmitted disease, or AIDS, HIV, HIV-1 antibodies, or any other probable causative agent of AIDS, viral hepatitis, or other infectious disease, upon request, he shall be provided with the following services:</p> <p>(a) Counseling regarding HIV, viral hepatitis, or other infectious disease.</p> <p>(b) Referral to appropriate health care and support services.</p> <p>(2) These services shall be provided in accordance with applicable state law and the regulations governing the specific programs under which the services are to be provided.</p> <p>(3) The costs associated with this testing shall be paid by the offender.</p> <p>C. Any Person who is involved in or witnesses and incident provided for in Subsection A of this Section may notify by affidavit the chief administrator of the jail or correctional facility that an incident provided for in Subsection A of this Section has occurred and the administrator shall order the testing, as provided in this Section, of each incarcerated prisoner who was involved in the incident.</p>

<b>Title 40: Public Health and Safety</b>	
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LA Title 40 Code §	Code Language
§ 1061	<p><b>Definition</b></p> <p>In this Subpart, "venereal disease" means syphilis, gonorrhea, or chancroid, or any other infectious disease primarily transmitted from one person to another by means of a sexual act.</p>
§ 1062.1	<p><b>Testing of donors of semen specimens; use of specimens; penalties</b></p> <p>A. No public or private health facility, agency, or physician which provides human artificial insemination services on an anonymous basis shall use fresh semen specimens. The provisions of this Section shall not be construed or interpreted in any way to prohibit the use of a wife's spouse's semen for artificial insemination purposes.</p> <p>B. A health facility, agency, or physician which provides human artificial insemination services on an anonymous basis using frozen semen shall test each semen donor for the presence in the donor of HIV-1 antibodies, which have been associated with acquired immune deficiency syndrome (AIDS). The donated semen shall be stored and quarantined until the HIV-1 antibodies test and a second test six months from the date of donation are completed. A regular donor may be tested for the presence of HIV-1 antibodies on a regular basis, but shall be tested at least once every six months. A health facility, agency, or physician shall not accept or use for artificial insemination purposes:</p> <p>(1) Any semen specimen, except that of a wife's spouse, from a donor who has not been subjected to an initial HIV-1 antibodies test which produced a negative result and subjected to a second test six months later which produced a negative result; or</p> <p>(2) Any semen specimen from a donor whose first or subsequent HIV-1 antibodies test result is positive, unless a corroborative HIV-1 test provides evidence that the positive HIV-1 test result was a false positive reaction.</p> <p>C. The results of the tests performed pursuant to this Section shall be released only to the subject of the test; the subject's treating physician; or the office of public health of the Department of Health and Hospitals for the limited purpose of statistical summary and analysis.</p> <p>D. The Department of Health and Hospitals shall promulgate rules to implement the provisions of this Section.</p> <p>E. A health facility, agency, or physician which violates any of the provisions of this Section shall be fined not more than two thousand dollars, and shall be liable for damages in a civil action.</p>
§ 1065	<p><b>Report of cases</b></p> <p>A. Every licensed physician in this state and every superintendent or</p>

<b>LA Title 40 Code §</b>	<b>Code Language</b>
	<p>manager of a hospital or dispensary in this state shall report to the department every case of venereal disease which he attends or examines or for which he prescribes or gives treatment in accordance with the requirements of the Louisiana Sanitary Code. This report shall be made within the time period prescribed in the Louisiana Sanitary Code. This report shall be made on, or in substantial conformity with, a blank form provided for that purpose by the office. The report shall contain the identifying information required by the Louisiana Sanitary Code.</p> <p>B. If the person affected with the venereal disease fails or refuses, for a period of ten days or more after the diagnosis as a venereal disease, to submit to proper treatment or if he exposes any other person to infection with the venereal disease, the attending physician shall make a supplementary report regarding these facts to the department.</p>
§ 1065.1	<p><b>Minor's consent for treatment of venereal diseases</b></p> <p>A. Consent to the provision of medical or surgical care or services by a hospital or public clinic, or to the performance of medical or surgical care or services by a physician, licensed to practice medicine in this state, when executed by a minor who is or believes himself to be afflicted with a venereal disease, shall be valid and binding as if the minor had achieved his majority. Any such consent shall not be subject to a later disaffirmance by reason of his minority.</p> <p>B. The consent of a spouse, parent, guardian or any other person standing in a fiduciary capacity to the minor shall not be necessary in order to authorize such hospital care or services or medical or surgical care or services to be provided by a physician licensed to practice medicine to such a minor.</p> <p>C. Upon the advice and direction of a treating physician, or, in the case of a medical staff, any one of them, a physician or member of a medical staff may, but shall not be obligated to, inform the spouse, parent or guardian of any such minor as to the treatment given or needed, and such information may be given to, or withheld from the spouse, parent or guardian without the consent and over the express objection of the minor.</p> <p>D. No physician licensed to practice medicine in this state shall incur civil or criminal liability in connection with any examination, diagnosis and treatment authorized by this section except for negligence.</p>
§ 1091	<p><b>Blood samples; standard test</b></p> <p>Every physician who attends any pregnant woman for conditions relating to pregnancy during the period of gestation or at delivery shall offer to take or to have taken a sample of her blood at the time of first examination or as soon as possible thereafter. If no objection is made by</p>



<b>LA Title 40 Code §</b>	<b>Code Language</b>
	<p>the woman, a blood sample shall be taken and submitted to any approved laboratory for a standard test for syphilis as approved by the American Board of Pathology and for a standard diagnostic HIV test approved by the Food and Drug Administration.</p> <p>All other persons permitted by law to attend pregnant women but not permitted to take blood samples shall have a sample of the blood of every pregnant woman attended by them taken by a duly licensed physician, if no objection to the taking of the sample is made by the woman, and submitted to an approved laboratory for a standard test for syphilis.</p>
§ 1092	<p><b>Nature of the standard test</b></p> <p>For the purposes of this Subpart, a standard test for syphilis is a test approved by the American Board of Pathology and shall be made at a laboratory operated by a duly licensed physician and pathologist as recognized by the American Board of Pathology or in a laboratory in a hospital approved by the American College of Surgeons as unconditionally meeting its minimum standards. A standard diagnostic HIV test is a test approved by the Food and Drug Administration and may include tests performed by a duly licensed physician or by other approved staff.</p>
§ 1099	<p><b>Infectious diseases; notification</b></p> <p>A. (1) If, while treating or transporting an ill or injured patient to a hospital, an emergency medical technician, paramedic, firefighter, police officer, or other person who is employed by or voluntarily working with a firm, agency, or organization which provides emergency treatment or transportation comes into direct contact with a patient who is subsequently diagnosed as having untreated pulmonary tuberculosis or acute meningococcal meningitis, or comes in contact with the blood or body fluid of a person who is subsequently diagnosed as having acute hepatitis virus B infection, or is a chronic hepatitis B carrier, or is infected with human immunodeficiency virus, the hospital receiving the patient shall notify the appropriate firm, agency, or organization which shall notify its emergency medical technician, paramedic, firefighter, police officer, emergency medical transportation service employer, or other person treating or transporting the patient of the individual's exposure to the infectious disease within forty-eight hours of confirmation of the patient's diagnosis and shall advise same of the appropriate treatment, if any. Notification shall be made in a manner that protects the confidentiality of the patient and the emergency medical technician, paramedic, police officer, or other person treating or transporting the patient.</p> <p>(2) Prior to October 30, 1988, the Department of Health and Hospitals shall, in accordance with the Administrative Procedure Act, promulgate rules and regulations for the notification procedures required under the provisions of this Subsection.</p> <p>B. (1) Whenever a patient is admitted to a hospital or nursing home by a physician, and that physician has actual knowledge that the patient is infected with one or more of the conditions described in Subsection A</p>

<b>LA Title 40 Code §</b>	<b>Code Language</b>
	<p>hereof, and is aware of the transfer, the physician shall notify the hospital or nursing home of the patient's condition.</p> <p>(2) Whenever a patient is transferred from a nursing home to a hospital, or from a hospital to a nursing home, and the transferor's records reflect that patient is infected with one or more of the conditions described in Subsection A hereof, the transferor shall notify the transferee of the patient's condition.</p> <p>(3) Whenever a patient is admitted to or treated at a hospital or nursing home and the hospital or nursing home has actual knowledge that the patient is infected with one or more of the conditions described in Subsection A hereof, the hospital or nursing home shall notify all health care providers involved in the treatment of that patient of the patient's condition.</p> <p>C. For purposes of this Subpart, "hospital" means any institution, place, building, or agency, public or private, whether operated for profit or not, devoted primarily to the maintenance and operation of facilities for the diagnosis, treatment, or care of persons admitted for overnight stay or longer who are suffering from illness, injury, infirmity, deformity, or other physical conditions for which obstetrical, medical, or surgical services would be available and appropriate. The term "hospital" specifically includes any emergency room or outpatient clinic operated in connection with a hospital as herein defined, whether or not the patient is admitted for overnight stay.</p>
§ 1299.141	<p><b>Definitions</b></p> <p>As used in this Part:</p> <p>(1) "HIV test" means a laboratory test approved by the Department of Health and Hospitals to detect antibodies to the human immunodeficiency virus.</p> <p>(2) "Autologous donations" means the donation or collection of blood, blood products, or tissue from a patient strictly intended for that patient's own future use.</p> <p>(3) "Health care provider" means a person, partnership, corporation, facility, or institution licensed by the state or federal government to provide health care or professional services as a physician, osteopath, hospital, blood bank or tissue bank and/or an officer, employee, or agent thereof acting in the course and scope of his employment.</p> <p>(4) "Patient" means a natural person who receives health care from a health care provider.</p> <p>(5) A "positive reaction" means a positive HIV test with a positive confirmatory test, including, but not limited to the western blot.</p>
§ 1299.142	<b>Blood and tissue storage facilities; test for AIDS</b>

<b>LA Title 40 Code §</b>	<b>Code Language</b>
	<p>A. A blood bank, tissue bank, or other blood or tissue storage facility shall perform an HIV test on the blood or tissue of all donors or cause such test to be performed. A blood or tissue storage facility shall not accept a blood or tissue donation from a donor whose HIV test results in a positive reaction unless:</p> <ol style="list-style-type: none"> <li>(1) The secondary, corroborative HIV test provides evidence that the first HIV test was a false positive reaction.</li> <li>(2) The blood, tissue, or a product of the blood of the donor will only be used for research purposes.</li> </ol> <p>B. The results of the tests performed pursuant to this Section shall be released only to:</p> <ol style="list-style-type: none"> <li>(1) The subject of the test;</li> <li>(2) The subject's or patient's treating physician;</li> <li>(3) A health care provider who procures, processes, distributes, or uses an anatomical gift for the sole purpose of ascertaining the medical acceptability of the anatomical gift;</li> <li>(4) The coroner, funeral director, or other person who examines or prepares the body of a decedent for burial or other disposition; or</li> <li>(5) The office of public health of the Department of Health and Hospitals for the restricted purpose of controlling the spread of communicable diseases as authorized by Title 36 and Title 40 of the Louisiana Revised Statutes and by the Louisiana State Sanitary Code.</li> </ol>
§ 1299.143	<p><b>Administration of blood, tissue, fluids to patient</b></p> <p>No physician, osteopath, hospital, blood bank, or tissue bank, or such health care provider's officers, employees, or agents authorized by law to administer blood, tissue, or fluids shall administer to a patient blood, blood products, body tissue, or body fluids donated by another individual unless:</p> <ol style="list-style-type: none"> <li>(1) The donated blood, blood products, body tissue, or body fluids have been subjected to an HIV test; and</li> <li>(2) The HIV test performed produced a negative result.</li> </ol>
§ 1300.11	<p><b>Purpose; intent; insurance and R.S. 40:1299.40(D) not affected</b></p> <p>The legislature recognizes that confidentiality protection for information related to human immunodeficiency virus (HIV) infection and acquired immunodeficiency syndrome (AIDS) is an essential public health measure. In order to retain the full trust and confidence of persons at risk, the state has an interest both in assuring that HIV test results are not improperly disclosed and in having clear and certain rules for the disclosure of such information. By providing additional protection for the confidentiality of HIV test results, the legislature intends to encourage the expansion of voluntary confidential testing for HIV so that individuals may come forward, learn their health status, make decisions regarding the appropriate treatment, and change behaviors that put them and others at risk of infection. The legislature also recognizes that confidentiality</p>

<b>LA Title 40 Code §</b>	<b>Code Language</b>
	<p>protections can limit the risk of discrimination and the harm to an individual's interest in privacy that unauthorized disclosure of HIV test results can cause. It is not the intent of the legislature to create any new right, right of action, or cause of action or eliminate any right, right of action, or cause of action existing under current law. It is further not the intent of the legislature that this Chapter repeal, amend, or in any way affect the provisions of <a href="#">R.S. 40:1299.40(D)</a> relative to the ability of a physician or employee of a hospital who may become infected with the human immunodeficiency virus to test the blood of a patient without the patient's consent. It is the intent of the legislature that in the case of a person applying for or already insured under an insurance policy, who will be or has been the subject of a test to determine infection for human immunodeficiency virus (HIV), all facets of insurers' practices in connection with HIV related testing and HIV test results and all facets of other entities' and individuals' interactions with insurers relating to HIV related testing or HIV test results shall be governed exclusively by Title 22 of the Revised Statutes of 1950 and any regulations promulgated pursuant thereto by the commissioner of the Department of Insurance who shall have the authority to promulgate such regulations.</p>
§ 1300.12	<p><b>Definitions</b></p> <p>A. "HIV-related test" is a test which is performed solely to diagnose infection with Human Immunodeficiency Virus (HIV).</p> <p>B. "HIV test result" is the original document, or copy thereof, transmitted to the medical record from the laboratory or other testing site the result of an HIV-related test. The term shall not include any other note, notation, diagnosis, report, or other writing or document.</p> <p>C. "Contact" is a sex-sharing or needle-sharing partner, a person who has had contact with blood or body fluids to which universal precautions apply through percutaneous inoculation or contact with an open wound, non-intact skin, or mucous membrane, or a person who has otherwise been exposed to an HIV infected person in such a way that infection may have occurred as defined by the Department of Health and Hospitals regulations based upon Center for Disease Control guidelines.</p>
§ 1300.13	<p><b>HIV-related testing; consent; exceptions</b></p> <p>A. Except as provided, specifically authorized, or required by a state or federal law, in the event that HIV diagnostic testing is offered to a person as part of a routine medical screening in health care settings, substance abuse treatment facilities, mental health treatment facilities, and correctional settings, the patient shall be informed orally or in writing that HIV testing shall be performed unless the patient declines or "opts out" of the testing. Oral or written information shall include an explanation of HIV infection and the meanings of positive and negative test results, and the patient shall be offered the opportunity to ask questions. Consent for HIV testing shall be incorporated into the patient's general informed</p>

<b>LA Title 40 Code §</b>	<b>Code Language</b>
	<p>consent for medical care on the same basis as are other screening or diagnostic tests; a separate consent form for HIV testing shall not be necessary. If a patient declines testing, it shall be noted in the medical record.</p> <p>B. Community-based organizations that are funded by the office of public health to conduct HIV testing services will be required to follow all HIV testing protocols established by the HIV/AIDS Program of the office of public health.</p> <p>C. A patient requesting the performance of an HIV-related test shall be provided an opportunity to remain anonymous by the use of a coded system with no correlation or identification of the individual's identity to the specific test request or results. In these instances the identifying information otherwise required by the Louisiana State Sanitary Code shall not be required. A health care provider that is not able to provide HIV-related tests on an anonymous basis shall refer, at no extra charge to the individual seeking anonymity, such individual to a test site that provides anonymous testing. The provisions of this Subsection shall not apply to inpatients in hospitals.</p> <p>D. If an individual tests positive for HIV infection, the individual shall be referred to a health care provider for appropriate HIV-related primary medical care.</p> <p>E. The provisions of Subsections A through D shall not apply to the performance of an HIV-related test.</p> <p>(1) By a health care provider or health care facility in relation to the procuring, processing, distributing, or use of a human body or human part, including organs, tissues, eyes, bones, arteries, blood, semen, or other body fluids, for use in medical research or therapy, or for transplantation to individuals, as provided in R.S. 40:1299.142.</p> <p>(2) For purposes of accredited scientific or medical research. Any testing must be performed in such a manner that the identity of the test subject remains anonymous and may not be retrieved by any researcher unless specifically authorized.</p> <p>(3) On a deceased person, when the HIV-related test is conducted to determine the cause of death or for epidemiological purposes.</p> <p>(4) On any child taken into custody by the Department of Social Services, where department officials have cause to believe that the child has been infected with HIV.</p> <p>(5) On any child when the child's attending physician reasonably believes such test to be necessary in order to properly diagnose or treat the child's medical condition and documents such reason in the child's medical record, including all newborns whose mothers present for delivery without</p>

<b>LA Title 40 Code §</b>	<b>Code Language</b>
	<p>a diagnostic HIV test on record. A patient requesting the performance of an HIV-related test shall be provided an opportunity to remain anonymous by the use of a coded system with no correlation or identification of the individual's identity to the specific test request or results. A health care provider that is not able to provide HIV-related tests on an anonymous basis shall refer, at no extra charge to the individual seeking anonymity, such individual to a test site that does provide anonymous testing. The provisions of this Subsection shall not apply to inpatients in hospitals.</p> <p>(6) On any person who has been arrested, indicted, or convicted for the crimes of aggravated rape, forcible rape, simple rape, or incest when required by a court to undergo an HIV-related test.</p>
§ 1300.14	<p><b>Confidentiality of HIV test result; disclosure</b></p> <p>A. Except as otherwise provided by law, no person who obtains, retains, or becomes the recipient of confidential HIV test results in the course of providing any health or social service or pursuant to a release of confidential HIV test results may disclose such information pursuant to a written authorization to release medical information when such authorization contains a refusal to release HIV test results.</p> <p>B. Notwithstanding the provisions of Subsection A, HIV test results may be released to the following:</p> <p>(1) Any person to whom disclosure of medical information is authorized by law without the consent of the patient.</p> <p>(2) Any agent or employee of a health facility or health care provider if:</p> <p>(a) The agent or employee is permitted access to medical records.</p> <p>(b) The health facility or health care provider is authorized to obtain the HIV test results.</p> <p>(c) The agent or employee provides health care to the patient or maintains or processes medical records for billing or reimbursement purposes.</p> <p>(3) A health care provider or health facility, when knowledge of the HIV test results is necessary to provide appropriate care or treatment to the patient and afford the health care provider and the personnel of the health facility an opportunity to protect themselves from transmission of the virus.</p> <p>(4) A health facility or health care provider, in relation to the procurement, processing, distributing, or use of a human body or a human body part, including organs, tissues, eyes, bones, arteries, blood, semen, or other body fluids, for use in medical education, research, therapy, or transplantation.</p> <p>(5) Any health facility staff committees or accreditation or oversight review organizations authorized to access medical records, provided that the committee or organization shall only disclose confidential HIV test results:</p> <p>(a) To the facility or provider of a health or social service.</p>

<b>LA Title 40 Code §</b>	<b>Code Language</b>
	<p>(b) To a federal, state, or local government agency for the purposes of and subject to the conditions provided in Paragraph (6) of this Subsection.</p> <p>(c) To carry out the monitoring evaluation, or service for which it was obtained.</p> <p>(6) A federal, state, parish, or local health officer when the disclosure is mandated by federal or state law.</p> <p>(7) An agency or individual in connection with the foster care programs of the Department of Social Services or an agency or individual in connection with the adoption of a child.</p> <p>(8) Any person to whom disclosure is ordered by a court of competent jurisdiction.</p> <p>(9) An employee or agent of the Board of Parole of the Department of Public Safety and Corrections to the extent that the employee or agent is authorized to access records containing HIV test results in order to implement the functions, powers, and duties with respect to the individual patient of the Board of Parole, Department of Public Safety and Corrections.</p> <p>(10) An employee or agent of the office of probation and parole of the Department of Public Safety and Corrections, division of correction services, to the extent the employee or agent is authorized to access records containing HIV test results in order to carry out the functions, powers, and duties, with respect to patient of the office.</p> <p>(11) A medical director of a local correctional facility, to the extent the medical director is authorized to access records containing HIV test results in order to carry out the functions, powers, and duties with respect to the patient.</p> <p>(12) An employee or agent of the Department of Public Safety and Corrections, to the extent the employee or agent is authorized to access records containing HIV test results in order to carry out the Department of Public Safety and Corrections functions, powers, and duties with respect to the patient.</p> <p>(13) An employee or agent who is authorized by the Department of Social Services, office of rehabilitative services to access records containing HIV test results in order to carry out the Department of Social Services, office of rehabilitative services functions, powers, and duties with respect to the protected patient.</p> <p>(14) An insurer, insurance administrator, self-insured employer, self-insurance trust, or other person or entity responsible for paying or determining payment for medical services to the extent necessary to secure payment for those services.</p> <p>C. A state, parish, or local health officer may disclose confidential HIV test results when:</p> <p>(1) Disclosure is specifically authorized or required by federal or state law.</p> <p>(2) Disclosure is made pursuant to a release of confidential HIV test results.</p> <p>(3) Disclosure is requested by a physician pursuant to Subsection E of this Section.</p>



<b>LA Title 40 Code §</b>	<b>Code Language</b>
	<p>(4) Disclosure is authorized by court order.</p> <p>D. No person to whom confidential HIV test results have been disclosed pursuant to this Part shall disclose the information to another person except as authorized by this Part, provided, however, that the provisions of this Subsection shall not apply to the individual or to a natural person who is authorized by law to consent to health care for the individual.</p> <p>E. (1) A physician may disclose confidential HIV test results under all of the following conditions:</p> <p>(a) Disclosure is made to a contact, or to a public health officer for the purpose of making the disclosure to said contact.</p> <p>(b) The physician reasonably believes disclosure is medically appropriate, and there is a significant risk of infection to the contact.</p> <p>(c) The physician has counseled the patient regarding the need to notify the contact, and the physician reasonably believes the patient will not inform the contact.</p> <p>(d) The physician has informed the patient of his or her intent to make such disclosure to a contact and has given the patient the opportunity to express a preference as to whether disclosure should be made by the physician directly or to a public health officer for the purpose of said disclosure. If the patient expresses a preference for disclosure by a public health officer or by the physician the physician shall honor such preference.</p> <p>(2) When making such disclosures to the contact, the physician or public health officer shall provide or make referrals for the provision of the appropriate medical advice and counseling for coping with the emotional consequences of the knowledge of the information and for alteration of behavior to prevent transmission or contraction of HIV infection. The physician or public health officer shall not disclose the identity of the patient or the identity of any other contact. A physician or public health officer making a notification pursuant to this Subsection shall make such disclosure in person, except where circumstances reasonably prevent doing so.</p> <p>(3) A physician shall have no obligation to identify or locate any contact.</p> <p>(4) A physician may, upon the consent of a parent or guardian, disclose confidential HIV test results to a state, parish, or local health officer for the purpose of reviewing the medical history of a child to determine the fitness of the child to attend school.</p> <p>(5) A physician may disclose confidential HIV test results pertaining to a patient to a person authorized by law to consent to health care for the patient when the physician reasonably believes that disclosure is medically necessary in order to provide timely care and treatment for the patient and, after appropriate counseling as to the need for such disclosure, the patient has not and will not inform the person authorized by law to consent to health care. The physician shall not make such disclosure if, in the judgment of the physician, the disclosure would not be in the best interest of the patient or of the individual authorized by law to consent to such care and treatment. Any decision or action by a physician</p>



<b>LA Title 40 Code §</b>	<b>Code Language</b>
	<p>pursuant to this Paragraph and the basis thereof shall be recorded in the patient's medical record.</p> <p>F. A physician may choose, notwithstanding any other provision of law to the contrary, not to disclose the results of a confidential HIV test to a person upon whom such a test has been performed when in the medical opinion of the physician the disclosure of such results would be medically contraindicated.</p>
§ 1300.15	<p><b>Court authorization for disclosure of confidential HIV test results</b></p> <p>A. Notwithstanding any other provision of law, no court shall issue an order for the disclosure of confidential HIV test results except a court of record of competent jurisdiction in accordance with the provisions of this Part.</p> <p>B. A court may grant an order for disclosure of confidential HIV test results upon an application showing:</p> <ol style="list-style-type: none"> <li>(1) A compelling need for disclosure of the information for the adjudication of a criminal or civil proceeding.</li> <li>(2) A clear and imminent danger to an individual whose life or health may unknowingly be at significant risk as a result of contact with the individual to whom the information pertains.</li> <li>(3) Upon application of a state, parish, or local health officer, a clear and imminent danger to the public health.</li> <li>(4) That the applicant is lawfully entitled to the disclosure and the disclosure is consistent with the provisions of this Part.</li> </ol> <p>C. Upon receiving an application for an order authorizing disclosure pursuant to this Section, the court shall enter an order directing that all pleadings, papers, affidavits, judgments, orders of the court, briefs, and memoranda of law which are part of the application or the decision thereon, be sealed and not made available to any person, except to the extent necessary to conduct any proceedings in connection with the determination of whether to grant or deny the application, including any appeal. Such an order shall further direct that all subsequent proceedings in connection with the application, shall be conducted in camera, and, where appropriate to prevent the unauthorized disclosure of confidential HIV test results, that any pleadings, papers, affidavits, judgments, orders of the court, briefs, and memoranda of law which are part of the application or the decision thereon omit the name of the individual concerning whom confidential HIV test results are sought.</p> <p>D. (1) The individual concerning whom confidential HIV test results are sought and any person holding records concerning confidential HIV test results from whom disclosure is sought shall be given adequate notice of such application in a manner that shall not disclose to any other person the identity of the individual, and shall be afforded an opportunity to file a written response to the application, or to appear in person for the limited purpose of providing evidence on the statutory criteria for the issuance of</p>

<b>LA Title 40 Code §</b>	<b>Code Language</b>
	<p>an order pursuant to this Section.</p> <p>(2) The court may grant an order without such notice and opportunity to be heard, if an ex parte application by a public health officer shows a clear and imminent danger to an individual whose life or health may unknowingly be at risk.</p> <p>(3) The service of a subpoena shall not be subject to this Subsection.</p> <p>E. In assessing the compelling need and clear and imminent danger, the court shall provide written findings of fact, including scientific or medical findings, citing specific evidence in the record that supports each finding, and shall weigh the need for disclosure against the privacy interest of the protected individual and against the public interest that may not be served by disclosure which deters future testing or treatment or which may lead to discrimination.</p> <p>F. An order authorizing disclosure of confidential HIV test results shall:</p> <p>(1) Limit disclosure to that information necessary to fulfill the purpose for which the order is granted.</p> <p>(2) Limit disclosure to those persons whose need for the information is the basis for the order, and specifically prohibit additional disclosure by such persons to any other persons, regardless of whether they are parties to the action.</p> <p>(3) To the extent possible consistent with this Section, conform to the provisions of this Part.</p> <p>(4) Include such other measures as the court deems necessary to limit any disclosures not authorized by its order.</p>
§ 1300.16	<p><b>Rules and regulations; forms; report</b></p> <p>The office of public health of the Department of Health and Hospitals shall promulgate rules and regulations in accordance with the Administrative Procedure Act and develop forms and informational materials to be used for written informed consent for HIV-related testing and for disclosure of HIV test results. The use of forms developed by the office of public health shall constitute a legal presumption that consent to HIV-related testing was validly obtained. Health facilities and health care providers may use forms for informed consent or secure verbal informed consent for HIV-related testing, and for the release of confidential HIV test results other than those forms developed pursuant to this Section, provided, however, there shall be no legal presumption that consent secured through such means will be deemed valid. The form developed by the office of public health which authorizes release of medical records shall include a statement informing the individual executing the form of the right to refuse to disclose HIV test results, and the form shall also include a means for the individual to refuse to authorize disclosure of HIV test results. All forms developed or authorized pursuant to this Section shall be written in a clear and coherent manner using words with common, everyday meanings.</p>
§ 2018.2	<b>Community-based AIDS education grants</b>

<b>LA Title 40 Code §</b>	<b>Code Language</b>
	<p>A. The Department of Health and Hospitals shall have the power, and its duty shall be, to make grants available to parishes, municipalities, and nonprofit organizations for community-based prevention education programs relating to acquired immune deficiency syndrome (AIDS) aimed at one or more target populations comprised of individuals who are at risk of contracting and transmitting AIDS and the human immunodeficiency virus (HIV). Where a parish or municipality has a health department, grants to be made to a nonprofit organization located in that parish or municipality shall be made in consultation with the parish or municipal health department.</p> <p>B. Grants shall be awarded to nonprofit organizations, municipalities, or parishes, or any combination of these, provided they meet measurable standards as determined by the department. Awards shall be granted on a competitive basis. Grants shall be awarded to prevention education programs who provide the following services:</p> <ol style="list-style-type: none"> <li>(1) Individual face-to-face contact between program outreach personnel and the target population in the areas frequented by such population.</li> <li>(2) Outreach personnel who are able to communicate effectively with persons in the target population.</li> <li>(3) Distribution of written information tailored to and easily understandable by the target population, explaining how AIDS and the HIV virus is transmitted and how individuals can reduce their risk of becoming infected.</li> <li>(4) A system of referring members of the target population, upon request, to HIV testing sites, counseling programs, and health care providers or systems to the extent such sites, programs, or providers exist in that geographic area.</li> <li>(5) Initial and ongoing training for all outreach personnel on the means by which AIDS and the HIV virus are transmitted, how individuals can reduce their risk of becoming infected and on the program's systems of referrals for testing, counseling, health care, and drug and alcohol treatment.</li> </ol> <p>C. Grants awarded under the provisions of this Section may be used in the distribution of materials or items useful in preventing the transmission of AIDS and the HIV virus.</p> <p>D. The Department of Health and Hospitals, in awarding grants as provided for in this Section, shall give priority to community-based prevention and education programs which are geared toward the provision of services to target populations identified by the department, to include but not be limited to the following:</p> <ol style="list-style-type: none"> <li>(1) Intravenous drug users.</li> <li>(2) Persons who have numerous sexual contacts with intravenous drug users or with other persons who are at a high risk of having the HIV virus.</li> <li>(3) Racial or ethnic minorities, including persons whose primary language is not English, who are engaged in high-risk behavior.</li> </ol>

<b>LA Title 40 Code §</b>	<b>Code Language</b>
	<p>E. The Department of Health and Hospitals shall coordinate with existing HIV/AIDS related community-based prevention and education programs to plan for the implementation and expansion of such services through this grant program. Grants awarded under the provisions of this Section shall be monitored and evaluated by the Department of Health and Hospitals. Ongoing support for these services shall be contingent upon these programs accomplishing stated goals and objectives and effectively reaching the target populations as determined in the measurable standards outlined by the department.</p> <p>F. The department shall actively solicit and use federal resources to fund this grant program. The provisions of this Section shall be applicable only to the extent that funds are made available from federal sources for this purpose.</p>

<b>Children's Code</b>
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LA Ch. Code §	Code Language
§ 908.1	<p><b>AIDS and sexually transmitted diseases; victim's testing and services</b></p> <p>When a juvenile is adjudicated a delinquent for a sexual offense as defined in R.S. 14:42 through 43.3, the provisions of R.S. 15:535(C) and (D) shall apply.</p>
§ 1153	<p><b>Medical evaluation of the infant</b></p> <p>A. The act of relinquishment constitutes parental consent for the purposes of examining and testing procedures conducted by hospital staff and for the purposes of providing medical treatment and care of the infant.</p> <p>B. A physician shall promptly conduct a comprehensive medical examination and such tests to determine:</p> <ol style="list-style-type: none"> <li>(1) If the infant suffers from HIV or hepatitis, if suspected.</li> <li>(2) If the infant suffered fetal exposure to alcohol or drugs.</li> <li>(3) If the infant appears to have been abused or neglected.</li> <li>(4) The infant's estimated date of birth, if not previously known.</li> </ol> <p>C. The hospital shall forward the infant's birth information to the Bureau of Vital Statistics, for issuance of a birth certificate, unless it is determined that one has already been issued. Unless otherwise known, the infant shall be presumed to have been born in Louisiana.</p> <p>D. Absent evidence of willful or intentional misconduct or gross negligence in carrying out these responsibilities, medical personnel and hospital staff shall be immune from civil and criminal liability in any legal action arising from the hospital's examination, testing, care, and treatment of the infant.</p>