

# Tennessee

## Introduction and Table of Contents

April 8, 2011

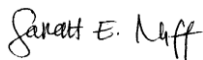
To the Reader:

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,



Sarah E. Neff, MPH  
Director of Research and Evaluation

&



Ronald H. Goldschmidt, MD  
Director

National HIV/AIDS Clinicians' Consultation Center (NCCC)  
San Francisco General Hospital  
University of California, San Francisco

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.<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>

# Tennessee

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

April 8, 2011

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

### Informed Consent

- No specific provisions regarding consent were found.

### Counseling

- No specific provisions regarding counseling were found.

### Provisos of Testing

- **Anonymous**
  - Name-based reporting precludes anonymous testing.
- **Rapid**
  - Rapid testing may be used on pregnant women presenting to labor or delivery with undocumented HIV status.
- **Routine**
  - No specific provisions regarding routine testing were found.

### Disclosure

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

### Minor/Adolescent Testing

- Minors may consent to STD testing, HIV explicitly included.

# Tennessee

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

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

April 8, 2011

This Perinatal Quick Reference Guide for clinicians is a summary of relevant Tennessee 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 Tennessee 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**

- **Initial visit**
  - Testing of pregnant women in prenatal care should take place as early in the course of pregnancy as possible and is through the opt-out process.
- **Third trimester**
  - Testing of pregnant women in prenatal care should take place again in the third trimester and is through the opt-out process.

#### **Labor & Delivery**

- Testing of pregnant women presenting to labor or delivery with undocumented HIV status using a rapid test is through the opt-out process.

#### **Neonatal**

- No specific provisions regarding neonatal testing were found.

#### **Other**

- Refusal of testing must be in writing and documented in the medical chart.
- **Counseling**
  - Pre-test counseling of pregnant women is required if testing is refused. When the time and circumstances are medically appropriate, women should be counseled regarding the consequences of exposing the unborn child to HIV.
  - Post-test counseling of pregnant women is required with HIV positive test results. After receiving a positive HIV test result, the medical provider shall, when the time and circumstances are medically appropriate, do the following:
    - (A) Explain the meaning and reliability of the test results and the availability of additional or confirmatory testing, if appropriate; and
    - (B) Counsel the woman to obtain appropriate medical treatment for herself and her baby and inform her of the increased risks to her baby if she fails to obtain appropriate treatment; and
    - (C) Make available information concerning the available medical interventions to prevent onset of illness in the mother and to prevent transmission of HIV to her children; and
    - (D) Arrange for additional counseling in order to assist the woman in obtaining access to a comprehensive clinical care facility that can meet her needs.

# Tennessee State Policies Relating to HIV Testing, 2011

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### Tennessee Code Annotated [TCA]

**Title 39: Criminal Offenses**..... Pages 4-7  
**Title 41: Correctional Institutions and Inmates**..... Pages 8-9  
**Title 68: Health, Safety, & Environmental Protection**..... Pages 10-18

### Tennessee Rules and Regulations [TNRR]

**Rules of Tennessee Medical Laboratory Board**..... Page 19

	Policy Category	Type	Section Code(s)
RESTR. ICTIONS/ MANDATES	Restrictions on use of HIV test	No related laws found	
	Mandatory testing within the criminal justice system	All inmates	TCA §41-21-107
		Convicted sex offenders	TCA §39-13-521
		Persons convicted of prostitution charges	TCA §39-13-521 TCA §39-13-513
		Persons convicted of patronizing prostitution	TCA §39-13-521 TCA §39-13-514
		Persons convicted of promoting prostitution	TCA §39-13-521 TCA §39-13-515
		Potential transmission to victims upon request of victim	TCA §39-13-112
		Inmate testing in cases of exposure	TCA §41-51-102
		Occupational exposure – law enforcement officers may request testing of subject	TCA §68-10-116
	Mandatory testing outside of the criminal justice system	Mandated testing of emergency response employees following exposure	TCA §68-140-520
		Health officers may require testing in cases of possible threats to public health	TCA §68-10-104
		Procedures for refused consent – court orders	TCA §68-10-110
		Occupational exposure – emergency medical services may request testing of suspect	TCA §68-10-117
		Occupational exposure - Employees of and students	TCA §68-11-222

		studying at a health care facility or an inpatient mental health facility	
		Blood donations tested for causative agents of AIDS	TCA §68-32-102
PRE-TESTING	Mandatory offering of HIV/AIDS information and/or testing	STD information must be offered to all patients being treated for STDs	TCA §68-10-103
	Informed consent	Written informed consent for testing of pregnant women	TCA §68-5-703
		Women presenting to labor and delivery with undocumented HIV status – opt-out written consent	TCA §68-5-703
	Counseling requirements	Mandatory pre-test counseling if testing refused and post-test if positive of pregnant women	TCA §68-5-703
	Anonymous testing	Mandatory name-based reporting precludes anonymous testing	TCA §68-10-112
POST-TESTING	Disclosure/confidentiality	Exceptions to confidentiality	TCA §68-10-113
		Court orders may allow access to confidential test results	TCA §68-10-113
		Immunity from liability for informing person of possible HIV infection	TCA §68-10-115
	Reporting	Name-based reporting	TCA §68-10-112
		Providers must report persons suspected of knowingly transmitting STDs	TCA §68-10-102
		Health care providers must report the number of pregnant women tested for HIV and the number testing positive	TCA §68-5-704
OTHER	Testing of pregnant women and/or newborns	Health care providers must arrange for testing of pregnant women in prenatal care as early as possible in the course of pregnancy and in the third trimester – opt-out testing; refusal of testing must be in writing and placed in the medical chart	TCA §68-5-703
		Rapid test of women presenting to labor and delivery with	TCA §68-5-703

	undocumented HIV status in last trimester – opt-out testing; refusal must be in writing	
Testing of minors/adolescents	Minors may consent to STD services, HIV included	TCA §68-10-104
Rapid HIV testing	Rules for use of rapid test	TNRR §1200-6-3-.17
	Women presenting to labor and delivery with undocumented HIV status will be tested with a rapid test	TCA §68-5-703
Training and education of health care providers	No related laws found	
Training and education of state employees	Directors of correctional facilities must provide bloodborne pathogen training to employees	TCA §41-51-101

### Recommended Resources

#### Tennessee Laws and Rules

<http://www.tennesseeanytime.org/laws/laws.html>

#### Tennessee Rules and Regulations

<http://state.tn.us/sos/rules/index.htm>

#### Tennessee State Department of Health

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

#### Tennessee Laws Relating to STDs

<http://health.state.tn.us/STD/stdlaws.htm>

<b>Title 39: Criminal Offenses</b>
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TN Title 39 Code §	Code Language
§39-13-112	<p><b>HIV testing for assault victims -- Reporting -- Payment for testing</b></p> <p>(a) (1) If a person is initially arrested for a violation of § 39-13-102 and if the victim of the assault suffered actual contact with the blood or other body fluid of the arrestee, then the arrestee shall undergo human immunodeficiency virus (HIV) testing immediately, upon the request of the victim. A licensed medical laboratory shall perform such test at the expense of the arrestee. The arrestee shall obtain a confirmatory test when necessary. The arrestee shall be referred to appropriate counseling.</p> <p>(2) For purposes of this section, "victim of the assault" is limited to a law enforcement officer; firefighter; correctional officer; youth services officer; probation and parole officer; an employee of the department of correction or the department of children's services; provided, that such officer or employee was performing an official duty; or an emergency medical or rescue worker, emergency medical technician, or paramedic, whether compensated or acting as a volunteer; provided that such technician or worker was performing an official duty.</p> <p>(b) (1) The licensed medical laboratory shall report the results of the HIV test required under this section immediately to the victim of the assault.</p> <p>(2) The result of the HIV test required under this section is not a public record and shall be available only to:</p> <ul style="list-style-type: none"> <li>(A) The victim of the assault;</li> <li>(B) The parent or guardian of a minor or incapacitated victim;</li> <li>(C) The attending physician of the person tested and of the victim;</li> <li>(D) The department of health;</li> <li>(E) The department of correction;</li> <li>(F) The person tested; and</li> <li>(G) The district attorney general prosecuting the case.</li> </ul> <p>(c) If the arrestee's test indicates that the arrestee is infected with HIV, then the arrestee shall be responsible for the victim's medical bills, laboratory bills and other expenses related to such victim's exposure to HIV, upon a finding that such exposure was from the arrestee.</p>
§39-13-513	<p><b>Prostitution.</b></p> <p>(a) A person commits an offense under this section who engages in prostitution.</p> <p>(b)(1) Prostitution is a Class B misdemeanor.</p> <p>(2) Prostitution committed within one hundred feet (100') of a church or within one and one-half (1 1/2) miles of a school, such distance being that established by § 49-6-2101, for state-funded school transportation, is a Class A misdemeanor.</p> <p>(3) A person convicted of prostitution within one and one-half (1 1/2) miles of a school shall, in addition to any other authorized punishment, be</p>



<b>TN Title 39 Code §</b>	<b>Code Language</b>
	<p>sentenced to at least seven (7) days of incarceration and be fined at least one thousand dollars (\$1,000).</p> <p>(c) As used in subsection (b), "school" means all public and private schools that conduct classes in any grade from kindergarten through grade twelve (K-12).</p>
§39-13-514	<p><b>Patronizing prostitution.</b></p> <p>(a) A person commits an offense under this section who patronizes prostitution.</p> <p>(b)(1) Patronizing prostitution is a Class B misdemeanor.  (2) Patronizing prostitution within one hundred feet (100') of a church or within one and one-half (1 1/2) miles of a school, such distance being that established by § 49-6-2101, for state-funded school transportation, is a Class A misdemeanor.  (3) A person convicted of patronizing prostitution within one and one-half (1 1/2) miles of a school shall, in addition to any other authorized punishment, be sentenced to at least seven (7) days of incarceration and be fined at least one thousand dollars (\$1,000).</p> <p>(c) As used in subsection (b), "school" means all public and private schools that conduct classes in any grade from kindergarten through grade twelve (K-12).</p>
§39-13-515	<p><b>Promoting prostitution.</b></p> <p>A person commits an offense under this section who promotes prostitution. Promoting prostitution is a Class E felony.</p>
§39-13-516	<p><b>Aggravated prostitution</b></p> <p>(a) A person commits aggravated prostitution when, knowing that such person is infected with HIV, the person engages in sexual activity as a business or is an inmate in a house of prostitution or loiters in a public place for the purpose of being hired to engage in sexual activity.</p> <p>(b) For the purposes of this section, "HIV" means the human immunodeficiency virus or any other identified causative agent of acquired immunodeficiency syndrome.</p> <p>(c) Nothing in this section shall be construed to require that an infection with HIV has occurred in order for a person to have committed aggravated prostitution.</p> <p>(d) Aggravated prostitution is a Class C felony.</p>
§39-13-521	<p><b>HIV testing of persons convicted of sexual offenses -- Release of test results</b></p>

TN Title 39 Code §	Code Language
	<p>(a) When a person is initially arrested for allegedly violating § 39-13-502, § 39-13-503, § 39-13-506, or § 39-13-522, that person shall undergo human immunodeficiency virus (HIV) testing immediately. A licensed medical laboratory shall perform such test at the expense of the arrestee. The arrestee shall obtain a confirmatory test when necessary. The arrestee shall be referred to appropriate counseling.</p> <p>(b) (1) The licensed medical laboratory shall report the results of the HIV test required under this section immediately to the victim.  (2) The result of the HIV test required under this section is not a public record and shall be available only to:  (A) The victim;  (B) The parent or guardian of a minor or incapacitated victim;  (C) The attending physician of the person tested and of the victim;  (D) The department of health;  (E) The department of correction;  (F) The person tested; and  (G) The district attorney general prosecuting the case.</p> <p>(c) If the arrestee is convicted, the court shall review the HIV test results prior to sentencing.</p> <p>(d) (1) The court may consider as an enhancement factor at the time of sentencing that the defendant has tested positive for HIV.  (2) For purposes of this section, "HIV" means the human immunodeficiency virus or any other identified causative agent of acquired immunodeficiency syndrome.  (3) For purposes of this section, "HIV test" means a test of an individual for the presence of human immunodeficiency virus, or for antibodies or antigens that result from HIV infection, or for any other substance specifically indicating infection with HIV. The department of health shall promulgate rules designating the proper test method to be used for this purpose.  (4) Nothing in this section shall be construed to require the actual transmission of HIV in order for the court to consider it as a mandatory enhancement factor.</p> <p>(e) Upon the conviction of the defendant for a violation of § 39-13-513, § 39-13-514, or § 39-13-515, the court shall order the convicted person to submit to an HIV test. Such test shall be performed by a licensed medical laboratory at the expense of the defendant. The defendant shall obtain a confirmatory test when necessary. The defendant shall be referred to appropriate counseling. The defendant shall return a certified copy of the results of all tests to the court. The court shall examine results in camera and seal the record. For the sole purpose of determining whether there is probable cause to prosecute a person for aggravated prostitution under § 39-13-516, the district attorney general may view the record notwithstanding the provisions of subdivision (b)(2). The district attorney general shall be required to file a written, signed request with the court</p>

<b>TN Title 39 Code §</b>	<b>Code Language</b>
	stating the reason the court should grant permission for the district attorney general to view the record. If the test results indicate the defendant is infected with HIV, then the district attorney general may use the results of the test in a prosecution for aggravated prostitution.

<b>Title 41: Correctional Institutions and Inmates</b>	
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TN Title 41 Code §	Code Language
§41-21-107	<p><b>Information recorded on reception</b></p> <p>(a) It is the duty of the warden of the Tennessee state penitentiary upon the reception of any inmate to:</p> <ol style="list-style-type: none"> <li>(1) Take a complete description of the inmate;</li> <li>(2) Take the inmate's fingerprints and photograph;</li> <li>(3) Record the county in which convicted, the nature of the crime and the period of imprisonment;</li> <li>(4) Obtain from the inmate a full and complete statement, giving a brief history of the inmate's past life, showing past residences, the names and post office addresses of all near relatives, and such other facts as may tend to show the past habits and character of the inmate; and</li> <li>(5) (A) Have the inmate undergo HIV testing, with or without the inmate's consent, through a licensed medical laboratory, unless the inmate has been tested pursuant to § 39-13-521 before reception. Unless previously tested, the inmate shall also undergo such HIV testing and shall also undergo a confirmatory test and be referred to appropriate counseling when necessary.</li> <li>(B) The result of any HIV test ordered under this subdivision (a)(5) is not a public record and shall be available only to: <ol style="list-style-type: none"> <li>(i) The person tested;</li> <li>(ii) The attending physician of the person tested;</li> <li>(iii) The department of health; and</li> <li>(iv) The department of correction.</li> </ol> </li> <li>(C) For purposes of this section, "HIV test" means a test of an individual for the presence of human immunodeficiency virus (HIV), or for antibodies or antigens that result from HIV infection, or for any other substance specifically indicating infection with HIV. The department of correction shall promulgate rules providing for the testing of inmates for HIV, and such rules shall be consistent with the rules and procedures of the department of health.</li> <li>(D) The provisions of this subdivision (a)(5) only apply to inmates less than twenty-one (21) years of age.</li> </ol> <p>(b) The warden shall, by correspondence or otherwise, seek to verify or disprove any such statements or information obtained from the inmate and shall preserve the record so obtained as a part of the official records of the Tennessee state penitentiary.</p>
§41-51-101	<p><b>Protection against bloodborne pathogens.</b></p> <p>The superintendent or director or warden of any correctional institution or county or municipal jail or workhouse shall provide training in universal precaution from bloodborne pathogens for all employees at risk for potential occupational exposure to bloodborne pathogens, including, but not limited, to hepatitis B or HIV(AIDS). Voluntary vaccinations shall be provided and strongly encouraged for all employees at risk. In order to increase the awareness of the need for practicing universal precaution, the superintendent or director or warden may periodically warn all employees at risk of potential exposure that a portion of the inmate population is likely to be infected with a</p>

TN Title 41 Code §	Code Language
	bloodborne pathogen.
§41-51-102	<p><b>Exposure to infectious diseases by inmates</b></p> <p>(a) It is the intent of the general assembly to protect the health and safety of the citizens of Tennessee through control of the spread of infectious diseases. The purpose of this section is to require a correctional institution to inform an employee, contract employee, or visitor of the infectious disease status of an inmate if such person has potentially been exposed to an infectious disease by the inmate.</p> <p>(b) For purposes of this section, the following definitions apply:</p> <p>(1) "Bloodborne pathogen" means the pathogenic microorganism that is present in human blood and can cause disease in humans. These pathogens include, but are not limited to, hepatitis B virus (HBV) and human immunodeficiency virus (HIV);</p> <p>(2) "Exposure incident" means a specific eye, mouth, other mucous membrane, skin, or parenteral contact with blood or other potentially infectious material that results from the performance of an employee's duties or during a visit to a correctional institution, county or municipal jail, or workhouse; and</p> <p>(3) "Source individual" means any inmate, living or dead, involved in an exposure incident.</p> <p>(c) Following a report of an exposure incident, a superintendent, director, or warden of a correctional institution, county or municipal jail, or workhouse shall test the source individual, or source individuals, with or without the source individual's consent, to determine bloodborne pathogen infectivity.</p> <p>(d) The superintendent, director or warden of the penitentiary, correctional institution, county or municipal jail, or workhouse shall disclose the results of the testing to each correctional employee, law enforcement officer or visitor who was involved in the exposure incident and who reasonably believes that that person may have been exposed to a serious or life-threatening disease or pathogen. Disclosure of the inmate's test results to the correctional employee or law enforcement officer shall occur no later than twenty-four (24) hours after such results are known by the proper correctional officials unless, following a reasonable effort, all such employee's or officers exposed cannot be notified within such time.</p> <p>(e) This section does not authorize the release of confidential information to members of the public in violation of § 10-7-504. For the purposes of this section, any person informed of the results of any inmate's test for infectious diseases shall treat the information received as confidential.</p>

<b>Title 68: Health, Safety, and Environmental Protection</b>
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TN Title 68 Code §	Code Language
§68-5-701	<p><b>Short title</b></p> <p>This part shall be known and cited as the "Tennessee HIV Pregnancy Screening Act of 1997."</p>
§68-5-702	<p><b>Purpose</b></p> <p>The purpose of this part is to require all providers of health care services who assume responsibility for the prenatal care of pregnant women during gestation, except in cases where women refuse testing, to test these women for human immunodeficiency virus (HIV) and to provide referral into appropriate medical and social services for those women who test positive.</p>
§68-5-703	<p><b>Counseling and HIV education for pregnant women -- Testing</b></p> <p>(a) A health care provider shall arrange for each pregnant woman under such provider's care to be tested for HIV as early as possible in the course of the pregnancy, and again during the third trimester, unless the woman has refused testing in writing and this refusal placed in the medical chart.</p> <p>(b) A pregnant woman who presents herself for delivery and who does not have a documented negative HIV test during the last trimester of the pregnancy, unless known to already be HIV positive, shall be tested for HIV using a rapid HIV test, unless she refuses in writing. If she refuses testing, and when the time and circumstances are medically appropriate, she should be counseled regarding the consequences of exposing her unborn child to HIV.</p> <p>(c) All HIV testing performed under this part shall be done in a confidential manner and the results of the testing may be disclosed only as provided by law.</p> <p>(d) After receiving a positive HIV test result the medical provider shall, when the time and circumstances are medically appropriate, do the following:</p> <ol style="list-style-type: none"> <li>(1) Explain the meaning and reliability of the test results and the availability of additional or confirmatory testing, if appropriate; and</li> <li>(2) Counsel the woman to obtain appropriate medical treatment for herself and her baby and inform her of the increased risks to her baby if she fails to obtain appropriate treatment; and</li> <li>(3) Make available information concerning the available medical interventions to prevent onset of illness in the mother and to prevent transmission of HIV to her children; and</li> <li>(4) Arrange for additional counseling in order to assist the woman in obtaining access to a comprehensive clinical care facility that can meet her needs.</li> </ol>

<b>TN Title 68 Code §</b>	<b>Code Language</b>
§68-5-704	<p><b>Reports to department.</b></p> <p>(a) Each health care provider having a pregnant woman under the provider's care shall report to the department, on a monthly basis, the total number of women under the provider's care who were tested for HIV under § 68-5-703 and the total number of such women who tested positive. The reports shall be made on forms to be prescribed by the department. Each month the department shall compile the reports and publish the total number of women tested and the total number of women testing positive in the previous month for the entire state and for each county.</p> <p>(b) The department shall make available to the appropriate health care providers in this state the written and video materials, forms, and counseling referred to in this part.</p>
§68-10-101	<p><b>Chapter definitions.</b></p> <p>As used in this chapter, unless the context otherwise requires:</p> <p>(1) "Commissioner" means the commissioner of health or the commissioner's designee; or in the absence of the commissioner, the deputy commissioner;</p> <p>(2) "Department" means the department of health;</p> <p>(3) "Forms" means the certificates that are authorized, prepared and distributed by the department to carry out the provisions of this chapter;</p> <p>(4) "Sexually transmitted disease" (STD) means any disease that is transmitted primarily through sexual practices and is identified in rules and regulations of the department; and</p> <p>(5) "Test" means a test approved by the department to determine possible infection with STDs.</p> <p>[Acts 1988, ch. 695, §§ 1, 2; T.C.A. § 68-10-112.]</p>
§68-10-102	<p><b>Notice to health officer of name and address of diseased person exposing others to infection.</b></p> <p>If any attending physician or other person knows or has good reason to suspect that a person having a STD is behaving so as to expose other persons to infection, or is about to so behave, the attending physician or other person shall notify the municipal or county health officer of the name and address of the diseased person and the essential facts in the case.</p> <p>[Acts 1921, ch. 106, § 2; Shan. Supp., § 3116a9; Code 1932, § 5814; Acts 1943, ch. 73, § 2; C. Supp. 1950, § 5814; T.C.A. (orig. ed.), § 53-1102.]</p>
§68-10-103	<p><b>Printed instructions given patients.</b></p> <p>It is the duty of every physician or other person treating persons infected</p>

TN Title 68 Code §	Code Language
	<p>with a STD to give such persons printed instructions containing information deemed advisable by the department, such printed instructions to be furnished by the department.</p> <p>[Acts 1921, ch. 106, § 3; impl. am. Acts 1923, ch. 7, § 46; Shan. Supp., § 3116a10; Code 1932, § 5815; T.C.A. (orig. ed.), § 53-1103.]</p>
§68-10-104	<p><b>Officers to examine suspected persons and require treatment - Sources of infection to be investigated.</b></p> <p>(a) (1) State, district, county and municipal health officers or their authorized deputies, within their respective jurisdictions, are directed and empowered, when, in their judgment, it is necessary to protect the public health, to make an examination of a person reasonably suspected because of known clinical or epidemiological evidence of being infected with a STD of a communicable nature, and to require such person when found infected to report for treatment to a reputable physician or clinic, and continue treatment until discharged by the physician or clinic as noninfectious, or in a stage of the disease in which an infectious relapse will not occur, or to submit to treatment provided at public expense until discharged as noninfectious, or in a stage of the disease in which an infectious relapse will not occur; and also, when in the judgment of the state, municipal or county health officer, it is necessary to protect the public health, to isolate and quarantine the person infected with a STD; provided, that any person so suspected may have present at the time of examination a physician of the person's own choosing to participate in the examination.</p> <p>(2) Loitering about or residing in a house of assignation or prostitution or any other place where lewdness is practiced shall be construed as sufficient to suspect a person of being infected with a STD.</p> <p>(b) It is the duty of all health officers to investigate sources of infection of STDs and to cooperate with the proper officers whose duty it is to enforce laws directed against prostitution, lewdness and assignation and the spread of STDs.</p> <p>(c) Any state, district, county or municipal health officer or any physician may examine, diagnose and treat minors infected with STDs without the knowledge or consent of the parents of the minors, and shall incur no civil or criminal liability in connection with the examination, diagnosis or treatment, except for negligence.</p>
§68-10-109	<p><b>Rules and bylaws for control of sexually transmitted diseases.</b></p> <p>(a) The department of health is empowered and directed to make such rules and bylaws for the control of STDs, not in conflict with the provisions of this chapter, including the reporting of STDs and isolating and quarantining of infected persons, as it may from time to time deem advisable.</p> <p>(b) All rules and bylaws made pursuant to subsection (a) shall be of force</p>



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	<p>and binding upon the state, municipal and county health officers, and all other persons affected by the rules and regulations, and shall have the force and effect of law.</p> <p>[Acts 1921, ch. 106, § 10; impl. am. Acts 1923, ch. 7, § 46; Shan. Supp., § 3116a17; Code 1932, § 5822; T.C.A. (orig. ed.), § 53-1109.]</p>
§68-10-110	<p><b>Arrest and temporary commitment for treatment authorized - Hearing - Examination - Appeal.</b></p> <p>(a) Whenever in the judgment of the municipal, county or district health officer, there is reasonable clinical or epidemiological evidence to suspect that any person or persons are infected with a STD as defined in this chapter, and the person or persons refuse to be examined as provided in § 68-10-104, the health officer or the health officer's authorized deputy may go before a magistrate or judge of a court of general sessions and swear out a warrant of arrest for the person or persons.</p> <p>(b) The magistrate or judge is not bound to issue the warrant pursuant to subsection (a), unless and until there is a showing of reasonable cause on the basis of sound clinical and epidemiological evidence.</p> <p>(c) If reasonable cause is shown for the arrest and examination of the person or persons, the magistrate or judge shall direct that an examination be made of the person or persons to determine whether or not they are infected.</p> <p>(d) The examination shall be made by the health officer or by a duly licensed and practicing physician of this state, to be selected by the health officer. The accused person or persons may also have a physician of their own choosing present to participate in the examination.</p> <p>(e) If the physicians are not in accordance as to their diagnosis, then the court shall reach its decision after a hearing.</p> <p>(f) If, after a full hearing, the court is of the opinion that the person examined is infected with a STD as defined in this chapter, the court may commit the person to an isolation hospital maintained by the state or local government for the purpose of detaining and treating such persons, who shall remain under treatment until the disease, in the opinion of the health officer, is no longer communicable or no longer in a stage in which infectious relapse may occur.</p> <p>(g) No appeal or certiorari from the decision of the court committing the person to the isolation hospital shall stay the commitment, nor shall any court have power to supersede such order, but the person or persons shall immediately be placed in the isolation hospital, there to remain until released by the health officer as no longer communicable or in a stage of the disease in which infectious relapse may occur, or released by order of the court.</p>

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	(h) Any person committed under this chapter may appeal from the judgment of the magistrate or court of general sessions as now provided by law for civil cases.
§68-10-112	<p><b>Reports of physicians and health officers.</b></p> <p>(a) Every physician or other person who makes a diagnosis of, treats, or prescribes for a case of STD and every superintendent or manager of a clinic, hospital, laboratory or penal institution, in which there is a case of STD, shall report the case immediately to those persons or agencies designated as recipients of such reports by the commissioner.</p> <p>(b) Reports shall be made on forms supplied by the department, stating the name, address, age, sex, race, stage of the disease and other information on the form as may be required for the location, treatment and control of infectious cases.</p> <p>(c) Reporting of STDs, other than those designated as reportable in the regulations promulgated by the department, is not required.</p> <p>[Acts 1921, ch. 106, § 1; impl. am. Acts 1923, ch. 7, § 46; Shan. Supp., § 3116a8; Code 1932, § 5813; Acts 1943, ch. 73, § 1; C. Supp. 1950, § 5813; T.C.A. (orig. ed.), § 53-1101; Acts 1988, ch. 695, §§ 1, 3; T.C.A. § 68-10-101.]</p>
§68-10-113	<p><b>Confidentiality of records and information.</b></p> <p>All records and information held by the department or a local health department relating to known or suspected cases of STDs shall be strictly confidential. This information shall not be released or made public upon subpoena, court order, discovery, search warrant or otherwise, except that release may be made under the following circumstances:</p> <p>(1) Release is made of medical or epidemiological information for statistical purposes, in such form that no individual person can be identified;</p> <p>(2) Release is made of medical or epidemiological information with the consent of all persons identified in the information released;</p> <p>(3) Release is made of medical or epidemiological information to medical personnel, appropriate state agencies, or county and district courts to enforce the provisions of this chapter and related regulations governing the control and treatment of STDs;</p> <p>(4) Release is made of medical or epidemiological information to medical personnel in a medical emergency to the extent necessary to protect the health or life of the patient;</p> <p>(5) In a case involving a minor not more than thirteen (13) years of age, only the name, age, address and STD treated shall be reported to appropriate agents as required by § 37-1-403. No other information shall be released. If the information to be disclosed is required in a court proceeding involving child abuse, the information shall be disclosed in camera; or</p> <p>(6) (A) Release is made during a legal proceeding when ordered by a</p>

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	<p>trial court judge, designated by § 16-2-502, or a juvenile court judge through an order explicitly finding each of the following:</p> <ul style="list-style-type: none"> <li>(i) The information sought is material, relevant, and reasonably calculated to be admissible evidence during the legal proceeding;</li> <li>(ii) The probative value of the evidence outweighs the individual's and the public's interest in maintaining its confidentiality;</li> <li>(iii) The merits of the litigation cannot be fairly resolved without the disclosure; and</li> <li>(iv) The evidence is necessary to avoid substantial injustice to the party seeking it and, either the disclosure will result in no significant harm to the person examined or treated, or it would be substantially unfair as between the requesting party and the person examined or treated not to require the disclosure.</li> </ul> <p>(B) A juvenile court judge shall make the findings set forth in subdivision (6)(A) by examining the information, in camera, and shall order the information placed under seal. The judge shall only examine the records of a juvenile who is under the jurisdiction of the court.</p>
§68-10-115	<p><b>Immunity from liability for informing person of potential HIV infection.</b></p> <p>A person who has a reasonable belief that a person has knowingly exposed another to HIV may inform the potential victim without incurring any liability. A person making such disclosure is immune from liability for making disclosure of the condition to the potential victim.</p>
§68-10-116	<p><b>Exposure of law enforcement officer to hepatitis B or HIV virus -- Testing of suspects</b></p> <p>(a) If, during the course of arresting, transporting or processing a person charged with the commission of a criminal offense, a law enforcement officer is exposed to the blood or other body fluid of such arrested person in any manner that presents a significant risk of transmission of the hepatitis B virus or the HIV (AIDS) virus, then the exposed officer has the right to request that such arrested person's blood be tested for the presence of the hepatitis B virus and the HIV (AIDS) virus.</p> <p>(b) Such testing shall occur at a licensed health care facility, with the cost to be paid by the state, county or municipal subdivision thereof which employs the law enforcement officer. Any person who, acting at the written request of a law enforcement officer, withdraws blood from a person for the purpose of making such test, shall not incur any civil or criminal liability as a result of the withdrawing of such blood, except for any damages that may result from the negligence of the person so withdrawing. Neither shall the hospital or licensed health care facility incur, except for negligence, any civil or criminal liability as a result of the act of withdrawing blood from any person. The results of such testing shall be confidential; provided, that the law enforcement officer exposed to such blood or other body fluid shall have the right to request the results of such testing and the person providing such test results shall be immune from liability in the same</p>

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	manner as is provided in § 68-10-115.
§68-10-117	<p><b>Possible exposure of emergency workers to airborne or bloodborne diseases -- Testing</b></p> <p>(a) If in the course of performing normal, authorized professional job duties, or rendering emergency care as a "good samaritan" under the Good Samaritan Law compiled in § 63-6-218, a member of one of the categories of individuals listed in subsection (d) reasonably believes that such member may have been exposed to potentially life-threatening airborne or bloodborne diseases, including, but not limited to, tuberculosis, HIV or hepatitis B, such person has the right to request in writing that the individual who may have exposed such person be evaluated to determine the presence of such disease or diseases. Such request shall be made to the designated exposure control officer of the responding agency or county medical examiner who shall conduct the evaluation pursuant to the rules provided for in subsection (c).</p> <p>(b) Any such evaluation shall include all medical records held by the department of health, any health care provider, or health care facility pertaining to the individual who is the subject of the evaluation. Any information provided shall be made available in accordance with the rules provided for in subsection (c) and shall be used only for the purpose of performing the evaluation and shall be otherwise confidential. Any cost related to the evaluation shall be paid by the responding agency.</p> <p>(c) Any evaluation provided for in subsection (a) shall be conducted pursuant to public necessity rules promulgated by the commissioner of health consistent with federal regulations for such determination of exposure experienced by emergency response workers. Any agency, individual, or facility providing any assistance or information necessary for completing such evaluation shall not incur any civil or criminal liability as a result of providing such assistance or information consistent with the rules promulgated pursuant to this subsection (c).</p> <p>(d) The categories of individuals who may request such evaluations are: paramedics, emergency response employees, fire fighters, first response workers, emergency medical technicians, and volunteers making an authorized emergency response. Such evaluations may also be requested by any person rendering services as a "good samaritan" under the Good Samaritan Law compiled in § 63-6-218.</p>
§68-11-222	<p><b>Acquired immune deficiency syndrome -- Policies</b></p> <p>(a) All acute care hospitals, birthing centers, prescribed child care centers, and ambulatory surgical treatment centers in Tennessee licensed pursuant to the provisions of this part shall adopt, in the discretion of the institution and in consultation with the institution's medical staff, appropriate policies regarding the testing of patients and staff for human immunodeficiency virus and any other identified causative agent of acquired immune deficiency syndrome.</p>

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	<p>(b) Acting in consultation with the department of health, the following state entities shall promulgate rules requiring the respective facilities and persons, regulated by such state entities, to adopt and appropriately utilize universal precautions for prevention of HIV transmission:</p> <ol style="list-style-type: none"> <li>(1) Board for licensing health care facilities, created under § 68-11-202;</li> <li>(2) Board of dentistry, created under § 63-5-101;</li> <li>(3) Board of medical examiners, created under § 63-6-101;</li> <li>(4) Board of medical examiners' committee on physician assistants, created under § 63-19-103;</li> <li>(5) Board of nursing, created under § 63-7-201;</li> <li>(6) Board of occupational therapy, created under § 63-13-216;</li> <li>(7) Board of optometry, created under § 63-8-103;</li> <li>(8) Board of osteopathic examination, created under § 63-9-101;</li> <li>(9) Board of physical therapy, created under § 63-13-318; and</li> <li>(10) Board of registration in podiatry, created under § 63-3-103.</li> </ol> <p>(c) (1) In the event that an employee of a health care facility or an inpatient mental health facility licensed under Title 33, a student studying at such health care facility or inpatient mental health facility licensed under Title 33 or other care provider that renders services at such healthcare facility or inpatient mental health facility licensed under Title 33 is exposed to the blood or other body fluid of a patient, such facility may require that patient's blood to be tested for the presence of the hepatitis B virus and the HIV/AIDS virus.</p> <p>(2) Such testing shall be performed at no charge to the patient and the results of such testing shall be confidential.</p>
§68-32-102	<p><b>Facilities to test for AIDS - Contaminated blood - Cause of action for AIDS infection from untested blood.</b></p> <p>(a) All facilities collecting fresh human blood or plasma directly from an individual donor shall have the blood or plasma tested for the potential presence of the causative agent for acquired immune deficiency syndrome (AIDS).</p> <p>(b) Any blood shown by appropriate medical testing to be potentially contaminated by the causative agent for AIDS shall not be used for transfusions, or for any other purposes that may pose a threat of transmission of the virus.</p> <p>(c) Any person who contracts AIDS from any contaminated blood or blood product shall have a cause of action for damages, including all medical expenses, against any facility supplying untested blood, if the person can establish that such person received any untested blood, or blood product derived from untested blood, from the supplier.</p> <p>(d) This section shall not apply in those emergency situations where the attending physician determines that failure to transfuse will be life threatening to the patient.</p>

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§68-140-520	<p><b>Designation of government employee as officer for exposure control to perform infection control procedures.</b></p> <p>(a) A local government or any licensed ambulance service may utilize one (1) or more of its employees licensed as an EMT-P as its designated officer or officers for exposure control to perform infection control procedures necessary for prevention, exposure control and post-exposure evaluation on persons employed by that local government or licensed ambulance service as emergency response employees.</p> <p>(b) For the purposes of this part, "emergency response employees" (EREs) includes paramedics, fire fighters, first response workers, and emergency medical technicians.</p> <p>(c) All procedures authorized by this part shall be approved and performed under the medical direction of a Tennessee licensed physician.</p> <p>(d) For the purposes of this part, infection control procedures shall include the following:</p> <ol style="list-style-type: none"> <li>(1) Administering tuberculosis skin tests, influenza immunizations, hepatitis B immunizations, and other immunizations to EREs as ordered by the medical director;</li> <li>(2) Conducting prevention, informational and education programs for EREs pertaining to airborne and bloodborne diseases; and</li> <li>(3) Post-exposure evaluation of an ERE who may have been exposed to potentially life-threatening airborne or bloodborne diseases, including, but not limited to, tuberculosis, HIV or hepatitis B. The post-exposure evaluation shall consist of ascertaining information relative to the events regarding the perceived exposure, as well as assessing the degree or significance of the exposure for the purpose of informing the medical director. The medical director shall determine the potential public health risk and recommend the immediate course of action pertaining to the medical care of the ERE and any potential public health risk relative thereto. Further evaluation, treatment and follow-up of the ERE's condition shall be performed at a licensed hospital or physician's office.</li> </ol> <p>(e) Nothing in this part shall relieve nor limit any entity employing EREs from the statutory obligations imposed under title 68, chapter 10, title 50, chapter 3, or from occupational safety and health standards promulgated pursuant to 29 CFR 1910.</p>

<b>Tennessee Rules and Regulations – Chapter 1200-6: Division of Laboratory Licensing</b>
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Chap 1200-6 TNRR	Code Language
§1200-6-3-.17	<p><b>Waived Testing.</b></p> <p>(1) Definition: "Waived" means those laboratory tests, as defined by the Board, which may be performed by individuals not licensed under the Medical Laboratory Act, and which pose no reasonable risk of harm if performed incorrectly.</p> <p>(2) Clinical laboratory tests which are designated as waived shall:</p> <ul style="list-style-type: none"> <li>(a) be determined by the Board;</li> <li>(b) be an analyte and/or methodology previously deemed as waived under CLIA; and</li> <li>(c) apply to any and all testing sites</li> </ul> <p>(3) Clinical laboratories, pharmacies, and other health care facilities licensed by the State of Tennessee who perform waived testing must comply with the following minimum guidelines:</p> <ul style="list-style-type: none"> <li>(a) Notification must be provided to the Administrative Office for the Board using Board approved forms and protocols.</li> <li>(b) Performance of waived testing by a licensed medical laboratory must be approved by a Medical Laboratory Director as defined by the Tennessee Medical Laboratory Act, T.C.A. § 68-29-103.</li> <li>(c) In the absence of a Medical Laboratory Director as defined by the Tennessee Medical Laboratory Act, T.C.A. § 68-29-103, performance of waived testing must be approved by the physician legally responsible for laboratory testing performed by that health care facility or pharmacy.</li> <li>(d) Personnel must perform such testing in accordance with manufacturer recommendations, including quality control.</li> <li>(e) Patient test results must be recorded in a clinical record, to include date and time of specimen collection, units of measurement and identity of analyst performing the test.</li> <li>(f) The laboratory, pharmacy, or health care facility must identify personnel responsible for performing and supervising the waived testing.</li> <li>(g) Personnel performing the waived testing must have adequate, specific training and orientation to perform the tests, and must demonstrate satisfactory levels of competence before performing patient testing, and at a minimum, annually thereafter.</li> <li>(h) Performance of waived testing will be evaluated by Laboratory surveyors at the time of inspection.</li> </ul>