

CALIFORNIA CODES  
HEALTH AND **SAFETY CODE**  
SECTION 120975-121020

120975. To protect the privacy of individuals who are the subject of blood testing for antibodies to the probable causative agent of acquired immune deficiency syndrome (AIDS) the following shall apply:

Except as provided in Section 1603.1 or 1603.3, as amended by Chapter 23 of the Statutes of 1985, no person shall be compelled in any state, county, city, or other local civil, criminal, administrative, legislative, or other proceedings to identify or provide identifying characteristics that would identify any individual who is the subject of a blood test to detect antibodies to the probable causative agent of AIDS.

**120980.** (a) Any person who negligently discloses results of an HIV test, as defined in Section 120775, to any third party, in a manner that identifies or provides identifying characteristics of the person to whom the test results apply, **except pursuant to a written authorization, as described in subdivision (g)**, or except as provided in Section 1603.1 or 1603.3 or any other statute that expressly provides an exemption to this section, shall be assessed a civil penalty in an amount not to exceed one thousand dollars (\$1,000) plus court costs, as determined by the court, which penalty and costs shall be paid to the subject of the test.

(b) Any person who willfully discloses the results of an HIV test, as defined in Section 120775, to any third party, in a manner that identifies or provides identifying characteristics of the person to whom the test results apply, except pursuant to a written authorization, as described in subdivision (g), or except as provided in Section 1603.1 or 1603.3 or any other statute that expressly provides an exemption to this section, shall be assessed a civil penalty in an amount not less than one thousand dollars (\$1,000) and not more than five thousand dollars (\$5,000) plus court costs, as determined by the court, which penalty and costs shall be paid to the subject of the test.

(c) Any person who willfully or negligently discloses the results of an HIV test, as defined in Section 120775, to a third party, in a manner that identifies or provides identifying characteristics of the person to whom the test results apply, except pursuant to a written authorization, as described in subdivision (g), or except as provided in Section 1603.1 or 1603.3 or any other statute that expressly provides an exemption to this section, that results in economic, bodily, or psychological harm to the subject of the test, is guilty of a misdemeanor, punishable by imprisonment in the county jail for a period not to exceed one year or a fine of not to exceed ten thousand dollars (\$10,000) or both.

(d) Any person who commits any act described in subdivision (a) or (b) shall be liable to the subject for all actual damages, including damages for economic, bodily, or psychological harm that is a proximate result of the act.

(e) Each disclosure made in violation of this chapter is a separate and actionable offense.

(f) Except as provided in Article 6.9 (commencing with Section 799) of Chapter 1 of Part 2 of Division 1 of the Insurance **Code**, the results of an HIV test, as defined in Section 120775, that identifies or provides identifying characteristics of the person to whom the test results apply, shall not be used in any instance for the determination of insurability or suitability for employment.

(g) **"Written authorization," as used in this section, applies only to the disclosure of test results by a person responsible for the care and treatment of the person subject to the test. Written authorization is required for each separate disclosure of the test results, and shall include to whom the disclosure would be made.**

(h) Nothing in this section limits or expands the right of an injured subject to recover damages under any other applicable law. Nothing in this section shall impose civil liability or criminal sanction for disclosure of the results of tests performed on cadavers to public health authorities or tissue banks.

(i) Nothing in this section imposes liability or criminal sanction for disclosure of an HIV test, as defined in Section 120775, in accordance with any reporting requirement for a diagnosed case of AIDS by the department or the Centers for Disease Control under the United States Public Health Service.

(j) The department may require blood banks and plasma centers to submit monthly reports summarizing statistical data concerning the results of tests to detect the presence of viral hepatitis and HIV. This statistical summary shall not include the identity of individual donors or identifying characteristics that would identify individual donors.

(k) "Disclosed," as used in this section, means to disclose, release, transfer, disseminate, or otherwise communicate all or any part of any record orally, in writing, or by electronic means to any person or entity.

(l) When the results of an HIV test, as defined in Section 120775, are included in the medical record of the patient who is the subject of the test, the inclusion is not a disclosure for purposes of this section.