

Senate Bill No. 422

Passed the Senate May 9, 2011

Secretary of the Senate

Passed the Assembly July 14, 2011

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day
of _____, 2011, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Section 121015 of the Health and Safety Code, relating to health reporting.

LEGISLATIVE COUNSEL'S DIGEST

SB 422, Wright. Reporting of certain communicable diseases.

Existing law exempts a physician who has the results for a confirmed positive test for HIV from civil and criminal liability for disclosing that information to specified people, including the local health officer, and requires that no identifying information be disclosed, except as specified. Existing law authorizes the local health officer to notify the other specified people for appropriate care and followup.

This bill would include the designated staff of the local public health agency for HIV partner services among the people to whom the physician may disclose the information. The bill would authorize disclosure of identifying information with the written consent of the individual, as specified. The bill would also exempt from civil and criminal liability a local health officer and the designated local public health agency staff for HIV partner services who alert the other specified people about a positive HIV result.

The people of the State of California do enact as follows:

SECTION 1. Section 121015 of the Health and Safety Code is amended to read:

121015. (a) Notwithstanding Section 120980 or any other provision of law, no physician and surgeon who has the results of a confirmed positive test to detect HIV infection of a patient under his or her care shall be held criminally or civilly liable for disclosing to a person reasonably believed to be the spouse, or to a person reasonably believed to be a sexual partner or a person with whom the patient has shared the use of hypodermic needles, or to the local health officer or designated local public health agency staff for HIV partner services, that the patient has tested positive on a test to detect HIV infection, except that no physician and surgeon shall disclose any identifying information about the

individual believed to be infected, except as required in Section 121022 or with the written consent of the individual pursuant to subdivision (g) of Section 120980.

(b) No physician and surgeon shall disclose the information described in subdivision (a) unless he or she has first discussed the test results with the patient and has offered the patient appropriate educational and psychological counseling, that shall include information on the risks of transmitting the human immunodeficiency virus to other people and methods of avoiding those risks, and has attempted to obtain the patient's voluntary consent for notification of his or her contacts. The physician and surgeon shall notify the patient of his or her intent to notify the patient's contacts prior to any notification. When the information is disclosed to a person reasonably believed to be a spouse, or to a person reasonably believed to be a sexual partner, or a person with whom the patient has shared the use of hypodermic needles, the physician and surgeon shall refer that person for appropriate care, counseling, and followup. This section shall not apply to disclosures made other than for the purpose of diagnosis, care, and treatment of persons notified pursuant to this section, or for the purpose of interrupting the chain of transmission.

(c) This section is permissive on the part of the attending physician, and all requirements and other authorization for the disclosure of test results to detect HIV infection are limited to the provisions contained in this chapter, Chapter 10 (commencing with Section 121075) and Sections 1603.1 and 1603.3. No physician has a duty to notify any person of the fact that a patient is reasonably believed to be infected with HIV, except as required by Section 121022.

(d) The local health officer or the designated local public health agency staff for HIV partner services may, without incurring civil or criminal liability, alert any persons reasonably believed to be a spouse, sexual partner, or partner of shared needles of an individual who has tested positive on an HIV test about their exposure, without disclosing any identifying information about the individual believed to be infected or the physician making the report, and shall refer any person to whom a disclosure is made pursuant to this subdivision for appropriate care and followup. Upon completion of the efforts to contact, alert, and refer any person pursuant to this subdivision by a local health officer or the

designated local public health agency staff for HIV partner services, all records regarding that person maintained by the local health officer pursuant to this subdivision, including, but not limited to, any individual identifying information, shall be expunged by the local health officer.

(e) The local health officer shall keep confidential the identity and the seropositivity status of the individual tested and the identities of the persons contacted, as long as records of contacts are maintained.

(f) Except as provided in Section 1603.1, 1603.3, or 121022, no person shall be compelled in any state, county, city, or local civil, criminal, administrative, legislative, or other proceedings to identify or provide identifying characteristics that would identify any individual reported or person contacted pursuant to this section.

Approved _____, 2011

Governor