

AMENDED IN SENATE APRIL 9, 2013

**SENATE BILL**

**No. 249**

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**Introduced by Senator Leno**  
*(Principal coauthor: Assembly Member Stone)*

February 12, 2013

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An act to amend Sections 120975 and, 121010, 121022, and 121025 of, and to add Section ~~120986~~ 121026 to, the Health and Safety Code, relating to public health.

LEGISLATIVE COUNSEL'S DIGEST

SB 249, as amended, Leno. Public health: health records: confidentiality.

~~Under the federal Patient Protection and Affordable Care Act (PPACA), each state is required to, by January 1, 2014, establish an American Health Benefit Exchange that makes available qualified health plans to qualified individuals and small employers. Existing state law establishes the California Health Benefit Exchange (Exchange) within state government, specifies the powers and duties of the board governing the Exchange, and requires the board to facilitate the purchase of qualified health plans through the Exchange by qualified individuals and small employers by January 1, 2014. Existing law also provides for the Medi-Cal program, which is administered by the State Department of Health Care Services, under which qualified low-income individuals receive health care services. The Medi-Cal program is, in part, governed and funded by federal Medicaid Program provisions. Under the PPACA, beginning January 1, 2014, the state is authorized to expand Medi-Cal coverage to specified eligibility groups.~~

*Existing law requires health care providers and laboratories to report cases of HIV infection to the local health officer using patient names on a form developed by the State Department of Public Health.*

*This bill would require laboratories, upon request by the department, to report cases of HIV infection by name directly to the department in addition to reports to the local health officer.*

*Existing law authorizes state public health agency HIV surveillance staff, AIDS Drug Assistance Program staff, and care services staff to disclose personally identifying information in public health records relating to HIV or AIDS to local public health agency staff, who may further disclose the information to the HIV-positive person who is the subject of the record, or the health care provider who provides his or her HIV care, for the purpose of proactively offering and coordinating care and treatment services to him or her.*

*This bill would authorize local public health agency staff to further disclose acquired or developed information to the HIV-positive person who is the subject of the record or the health care provider who provides his or her HIV care, for that purpose.*

Existing law also provides specified health care coverage to individuals under the AIDS Drug Assistance Program (ADAP) and under federal Ryan White Act-funded programs, which are administered by the State Department of Public Health. Existing law, with some exceptions, prohibits the disclosure of the results of an HIV test to any 3rd party in a manner that identifies or provides identifying characteristics of the person to whom the test results apply. Existing law also provides that public health records related to HIV or AIDS containing personal identifying information that were developed or acquired by a state or local public agency shall be confidential and shall not be disclosed, except as otherwise provided by law or pursuant to written authorization.

This bill would authorize the State Department of Public Health, subject to specified provisions, to share *with qualified entities, as defined*, health records involving the diagnosis, care, and treatment of HIV or AIDS related to a beneficiary enrolled in federal Ryan White Act-funded programs who may be eligible for services under the ~~PPACA with participating entities, as defined, in health care coverage expansions under the PPACA~~ *federal Patient Protection and Affordable Care Act (PPACA), as specified*. *The bill would provide that any willful, negligent, or malicious disclosure of those records in violation of that provision would be a misdemeanor. By establishing a new crime, this bill would*

*impose a state-mandated local program.* The bill would make other related changes.

*The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.*

*This bill would provide that no reimbursement is required by this act for a specified reason.*

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: ~~no~~-yes.

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

1 SECTION 1. Section 120975 of the Health and Safety Code  
2 is amended to read:

3 120975. To protect the privacy of individuals who are the  
4 subject of testing for human immunodeficiency virus (HIV), the  
5 following shall apply:

6 Except as provided in Section 1603.1, 1603.3, or 121022, no  
7 person shall be compelled in any state, county, city, or other local  
8 civil, criminal, administrative, legislative, or other proceedings to  
9 identify or provide identifying characteristics that would identify  
10 any individual who is the subject of an HIV test, as defined in  
11 subdivision (c) of Section 120775, ~~to detect antibodies to HIV.~~

12 ~~SEC. 2. Section 120986 is added to the Health and Safety Code,~~  
13 ~~to read:~~

14 ~~120986. (a) Notwithstanding any other state law, for purposes~~  
15 ~~of implementing the federal Patient Protection and Affordable~~  
16 ~~Care Act (PPACA) (Public Law 111-148), as amended by the~~  
17 ~~Health Care and Education Reconciliation Act of 2010 (Public~~  
18 ~~Law 111-152), including, but not limited to, ensuring safe~~  
19 ~~transitions to Medi-Cal, the Medi-Cal Bridge Program, or any~~  
20 ~~insurance plan certified by the California Health Benefits Exchange~~  
21 ~~(Exchange) established pursuant to Title 22 (commencing with~~  
22 ~~Section 100500) of the Government Code, the State Department~~  
23 ~~of Public Health may share health records involving the diagnosis,~~  
24 ~~care, and treatment of human immunodeficiency virus (HIV) or~~  
25 ~~acquired immunodeficiency syndrome (AIDS) related to a~~  
26 ~~beneficiary enrolled in federal Ryan White Act-funded programs~~  
27 ~~who may be eligible for services under the PPACA, with entities~~

1 participating in health care coverage expansions under the PPACA,  
 2 and the participating entities may share health records relating to  
 3 persons diagnosed with HIV/AIDS with the State Department of  
 4 Public Health.

5 (b) The information provided by the State Department of Public  
 6 Health pursuant to this section shall not be further disclosed by a  
 7 participating entity, except to any or all of the following:

8 (1) The person who is the subject of the record or to his or her  
 9 guardian or conservator.

10 (2) The health care provider that provides care to the person  
 11 with HIV or AIDS to whom the information pertains.

12 (3) The Office of AIDS within the State Department of Public  
 13 Health.

14 (c) For purposes of this section, “participating entity” means  
 15 the State Department of Health Care Services, the Exchange,  
 16 Medi-Cal managed care plans, plans participating in the Medi-Cal  
 17 Bridge Program, qualified health plans offered through the  
 18 Exchange, county health departments, and any other entities  
 19 participating in health care coverage expansions under the PPACA.

20 (d) Information shared pursuant to this section shall be subject  
 21 to the confidentiality protections of subdivisions (d) and (e) of  
 22 Section 121025, as well as the Confidentiality of Medical  
 23 Information Act (Part 2.6 (commencing with Section 56) of  
 24 Division 1 of the Civil Code), and the federal Health Insurance  
 25 Portability and Accountability Act of 1996 (Public Law 104-191).

26 (e) This section shall only be implemented to the extent  
 27 permitted by federal law.

28 ~~SEC. 3.~~

29 *SEC. 2.* Section 121010 of the Health and Safety Code is  
 30 amended to read:

31 121010. Notwithstanding Section 120975 or 120980, the results  
 32 of an HIV test, as defined in subdivision (c) of Section 120775, to  
 33 detect antibodies to the probable causative agent of AIDS may be  
 34 disclosed to any of the following persons without written  
 35 authorization of the subject of the test:

36 (a) To the subject of the test or the subject’s legal representative,  
 37 conservator, or to any person authorized to consent to the test  
 38 pursuant to subdivision (b) of Section 120990.

39 (b) To a test subject’s provider of health care, as defined in  
 40 subdivision (d) of Section 56.05 of the Civil Code, except that for

1 purposes of this section, “provider of health care” does not include  
2 a health care service plan regulated pursuant to Chapter 2.2  
3 (commencing with Section 1340) of Division 2.

4 (c) To an agent or employee of the test subject’s provider of  
5 health care who provides direct patient care and treatment.

6 (d) To a provider of health care who procures, processes,  
7 distributes, or uses a human body part donated pursuant to the  
8 Uniform Anatomical Gift Act (Chapter 3.5 (commencing with  
9 Section 7150) of Part 1 of Division 7).

10 (e) (1) To the designated officer of an emergency response  
11 employee, and from that designated officer to an emergency  
12 response employee regarding possible exposure to HIV or AIDS,  
13 but only to the extent necessary to comply with provisions of the  
14 *federal* Ryan White Comprehensive AIDS Resources Emergency  
15 Act of 1990 (Public Law 101-381; 42 U.S.C. Sec. 201).

16 (2) For purposes of this subdivision, “designated officer” and  
17 “emergency response employee” have the same meaning as these  
18 terms are used in the *federal* Ryan White Comprehensive AIDS  
19 Resources Emergency Act of 1990 (Public Law 101-381; 42 U.S.C.  
20 Sec. 201).

21 (3) The designated officer shall be subject to the confidentiality  
22 requirements specified in Section 120980, and may be personally  
23 liable for unauthorized release of any identifying information about  
24 the HIV results. Further, the designated officer shall inform the  
25 exposed emergency response employee that the employee is also  
26 subject to the confidentiality requirements specified in Section  
27 120980, and may be personally liable for unauthorized release of  
28 any identifying information about the HIV test results.

29 *SEC. 3. Section 121022 of the Health and Safety Code is*  
30 *amended to read:*

31 121022. (a) To ensure knowledge of current trends in the HIV  
32 epidemic and to ensure that California remains competitive for  
33 federal HIV and AIDS funding, health care providers and  
34 laboratories shall report cases of HIV infection to the local health  
35 officer using patient names on a form developed by the department.  
36 *Upon request by the department, laboratories shall report cases*  
37 *of HIV infection by name directly to the department in a manner*  
38 *consistent with subdivision (g) of Section 120130, in addition to*  
39 *reports to the local health officer.* Local health officers shall report

1 unduplicated HIV cases by name to the department on a form  
2 developed by the department.

3 (b) (1) Health care providers and local health officers shall  
4 submit cases of HIV infection pursuant to subdivision (a) by courier  
5 service, United States Postal Service express mail or registered  
6 mail, other traceable mail, person-to-person transfer, facsimile, or  
7 electronically by a secure and confidential electronic reporting  
8 system established by the department.

9 (2) This subdivision shall be implemented using the existing  
10 resources of the department.

11 (c) The department and local health officers shall ensure  
12 continued reasonable access to anonymous HIV testing through  
13 alternative testing sites, as established by Section 120890, and in  
14 consultation with HIV planning groups and affected stakeholders,  
15 including representatives of persons living with HIV and health  
16 officers.

17 (d) The department shall promulgate emergency regulations to  
18 conform the relevant provisions of Article 3.5 (commencing with  
19 Section 2641.5) of Chapter 4 of Division 1 of Title 17 of the  
20 California Code of Regulations, consistent with this chapter, by  
21 April 17, 2007. Notwithstanding the Administrative Procedure  
22 Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of  
23 Division 3 of Title 2 of the Government Code), if the department  
24 revises the form used for reporting pursuant to subdivision (a) after  
25 consideration of the reporting guidelines published by the federal  
26 Centers for Disease Control and Prevention, the revised form shall  
27 be implemented without being adopted as a regulation, and shall  
28 be filed with the Secretary of State and printed in Title 17 of the  
29 California Code of Regulations.

30 (e) Pursuant to Section 121025, reported cases of HIV infection  
31 shall not be disclosed, discoverable, or compelled to be produced  
32 in any civil, criminal, administrative, or other proceeding.

33 (f) State and local health department employees and contractors  
34 shall be required to sign confidentiality agreements developed by  
35 the department that include information related to the penalties for  
36 a breach of confidentiality and the procedures for reporting a breach  
37 of confidentiality, prior to accessing confidential HIV-related  
38 public health records. Those agreements shall be reviewed annually  
39 by either the department or the appropriate local health department.

1 (g) No person shall disclose identifying information reported  
2 pursuant to subdivision (a) to the federal government, including,  
3 but not limited to, any agency, employee, agent, contractor, or  
4 anyone else acting on behalf of the federal government, except as  
5 permitted under subdivision (b) of Section 121025.

6 (h) (1) Any potential or actual breach of confidentiality of  
7 HIV-related public health records shall be investigated by the local  
8 health officer, in coordination with the department, when  
9 appropriate. The local health officer shall immediately report any  
10 evidence of an actual breach of confidentiality of HIV-related  
11 public health records at a city or county level to the department  
12 and the appropriate law enforcement agency.

13 (2) The department shall investigate any potential or actual  
14 breach of confidentiality of HIV-related public health records at  
15 the state level, and shall report any evidence of such a breach of  
16 confidentiality to an appropriate law enforcement agency.

17 (i) Any willful, negligent, or malicious disclosure of cases of  
18 HIV infection reported pursuant to subdivision (a) shall be subject  
19 to the penalties prescribed in Section 121025.

20 (j) Nothing in this section shall be construed to limit other  
21 remedies and protections available under state or federal law.

22 *SEC. 4. Section 121025 of the Health and Safety Code is*  
23 *amended to read:*

24 121025. (a) Public health records relating to human  
25 immunodeficiency virus (HIV) or acquired immunodeficiency  
26 syndrome (AIDS), containing personally identifying information,  
27 that were developed or acquired by a state or local public health  
28 agency, or an agent of that agency, shall be confidential and shall  
29 not be disclosed, except as otherwise provided by law for public  
30 health purposes or pursuant to a written authorization by the person  
31 who is the subject of the record or by his or her guardian or  
32 conservator.

33 (b) In accordance with subdivision (g) of Section 121022, a  
34 state or local public health agency, or an agent of that agency, may  
35 disclose personally identifying information in public health records,  
36 as described in subdivision (a), to other local, state, or federal  
37 public health agencies or to corroborating medical researchers,  
38 when the confidential information is necessary to carry out the  
39 duties of the agency or researcher in the investigation, control, or

1 surveillance of disease, as determined by the state or local public  
2 health agency.

3 (c) Except as provided in paragraphs (1) to (3), inclusive, any  
4 disclosure authorized by subdivision (a) or (b) shall include only  
5 the information necessary for the purpose of that disclosure and  
6 shall be made only upon agreement that the information will be  
7 kept confidential and will not be further disclosed without written  
8 authorization, as described in subdivision (a).

9 (1) Notwithstanding any other provision of law, the following  
10 disclosures shall be authorized for the purpose of enhancing  
11 completeness of HIV/AIDS, tuberculosis, and sexually transmitted  
12 disease coinfection reporting to the federal Centers for Disease  
13 Control and Prevention (CDC):

14 (A) The local public health agency HIV surveillance staff may  
15 further disclose the information to the health care provider who  
16 provides HIV care to the HIV-positive person who is the subject  
17 of the record for the purpose of assisting in compliance with  
18 subdivision (a) of Section 121022.

19 (B) Local public health agency tuberculosis control staff may  
20 further disclose the information to state public health agency  
21 tuberculosis control staff, who may further disclose the information,  
22 without disclosing patient identifying information, to the CDC, to  
23 the extent the information is requested by the CDC and permitted  
24 by subdivision (b), for purposes of the investigation, control, or  
25 surveillance of HIV and tuberculosis coinfections.

26 (C) Local public health agency sexually transmitted disease  
27 control staff may further disclose the information to state public  
28 health agency sexually transmitted disease control staff, who may  
29 further disclose the information, without disclosing patient  
30 identifying information, to the CDC, to the extent it is requested  
31 by the CDC, and permitted by subdivision (b), for the purposes of  
32 the investigation, control, or surveillance of HIV and syphilis,  
33 gonorrhea, or chlamydia coinfection.

34 (2) Notwithstanding any other provision of law, the following  
35 disclosures shall be authorized for the purpose of facilitating  
36 appropriate HIV/AIDS medical care and treatment:

37 (A) State public health agency HIV surveillance staff, AIDS  
38 Drug Assistance Program staff, and care services staff may further  
39 disclose the information to local public health agency staff, who  
40 may further disclose the information to the HIV-positive person

1 who is the subject of the record, or the health care provider who  
2 provides his or her HIV care, for the purpose of proactively offering  
3 and coordinating care and treatment services to him or her.

4 (B) AIDS Drug Assistance Program staff and care services staff  
5 in the State Department of Public Health may further disclose the  
6 information directly to the HIV-positive person who is the subject  
7 of the record or the health care provider who provides his or her  
8 HIV care, for the purpose of proactively offering and coordinating  
9 care and treatment services to him or her.

10 (C) *Local public health agency staff may further disclose*  
11 *acquired or developed information to the HIV-positive person who*  
12 *is the subject of the record or the health care provider who*  
13 *provides his or her HIV care for the purpose of proactively offering*  
14 *and coordinating care and treatment services to him or her.*

15 (3) Notwithstanding any other provision of law, for the purpose  
16 of facilitating appropriate medical care and treatment of persons  
17 coinfectd with HIV, tuberculosis, and syphilis, gonorrhea, or  
18 chlamydia, local public health agency sexually transmitted disease  
19 control and tuberculosis control staff may further disclose the  
20 information to state or local public health agency sexually  
21 transmitted disease control and tuberculosis control staff, the  
22 HIV-positive person who is the subject of the record, or the health  
23 care provider who provides his or her HIV, tuberculosis, and  
24 sexually transmitted disease care.

25 (4) For the purposes of paragraphs (2) and (3), “staff” ~~does~~ *shall*  
26 *not include nongovernmental entities, but shall include state and*  
27 *local contracted employees.*

28 (d) No confidential public health record, as defined in  
29 subdivision (c) of Section 121035, shall be disclosed, discoverable,  
30 or compelled to be produced in any civil, criminal, administrative,  
31 or other proceeding.

32 (e) (1) A person who negligently discloses the content of a  
33 confidential public health record, as defined in subdivision (c) of  
34 Section 121035, to any third party, except pursuant to a written  
35 authorization, as described in subdivision (a), or as otherwise  
36 authorized by law, shall be subject to a civil penalty in an amount  
37 not to exceed five thousand dollars (\$5,000), plus court costs, as  
38 determined by the court, which penalty and costs shall be paid to  
39 the person whose record was disclosed.

1 (2) Any person who willfully or maliciously discloses the  
2 content of any confidential public health record, as defined in  
3 subdivision (c) of Section 121035, to any third party, except  
4 pursuant to a written authorization, or as otherwise authorized by  
5 law, shall be subject to a civil penalty in an amount not less than  
6 five thousand dollars (\$5,000) and not more than twenty-five  
7 thousand dollars (\$25,000), plus court costs, as determined by the  
8 court, which penalty and costs shall be paid to the person whose  
9 confidential public health record was disclosed.

10 (3) Any person who willfully, maliciously, or negligently  
11 discloses the content of any confidential public health record, as  
12 defined in subdivision (c) of Section 121035, to any third party,  
13 except pursuant to a written authorization, or as otherwise  
14 authorized by law, that results in economic, bodily, or  
15 psychological harm to the person whose confidential public health  
16 record was disclosed, is guilty of a misdemeanor, punishable by  
17 imprisonment in a county jail for a period not to exceed one year,  
18 or a fine of not to exceed twenty-five thousand dollars (\$25,000),  
19 or both, plus court costs, as determined by the court, which penalty  
20 and costs shall be paid to the person whose confidential public  
21 health record was disclosed.

22 (4) Any person who commits any act described in paragraph  
23 (1), (2), or (3), shall be liable to the person whose confidential  
24 public health record was disclosed for all actual damages for  
25 economic, bodily, or psychological harm that is a proximate result  
26 of the act.

27 (5) Each violation of this section is a separate and actionable  
28 offense.

29 (6) Nothing in this section limits or expands the right of an  
30 injured person whose confidential public health record was  
31 disclosed to recover damages under any other applicable law.

32 (f) In the event that a confidential public health record, as  
33 defined in subdivision (c) of Section 121035, is disclosed, the  
34 information shall not be used to determine employability, or  
35 insurability of any person.

36 *SEC. 5. Section 121026 is added to the Health and Safety Code,*  
37 *to read:*

38 *121026. (a) Notwithstanding subdivision (f) of Section 120980,*  
39 *Section 121010, subdivision (g) of Section 121022, subdivision (f)*  
40 *of Section 121025, Section 121115, and Section 121280, the State*

1 Department of Public Health may share with qualified entities  
2 health records involving the diagnosis, care, and treatment of  
3 human immunodeficiency virus (HIV) or acquired  
4 immunodeficiency syndrome (AIDS) related to a beneficiary  
5 enrolled in federal Ryan White Act funded programs who may be  
6 eligible for services under the federal Patient Protection and  
7 Affordable Care Act (PPACA) (Public Law 111-148), as amended  
8 by the Health Care and Education Reconciliation Act of 2010  
9 (Public Law 111-152). The qualified entities may share health  
10 records relating to persons diagnosed with HIV/AIDS with the  
11 State Department of Public Health for the purpose of proactively  
12 offering and coordinating care and treatment services offered by  
13 new health coverage options offered under the PPACA, including,  
14 but not limited to, ensuring safe transitions to Medi-Cal, the bridge  
15 programs, Medicaid expansion programs, and any insurance plan  
16 certified by the California Health Benefit Exchange (Exchange)  
17 established pursuant to Title 22 (commencing with Section 100500)  
18 of the Government Code.

19 (b) The information provided by the State Department of Public  
20 Health pursuant to this section shall be limited to only the  
21 information necessary for the purposes of this section and shall  
22 not be further disclosed by a qualified entity, except to any or all  
23 of the following:

24 (1) The person who is the subject of the record or to his or her  
25 guardian or conservator.

26 (2) The provider of health care for the person with HIV or AIDS  
27 to whom the information pertains.

28 (3) The Office of AIDS within the State Department of Public  
29 Health.

30 (c) For purposes of this section, the following definitions shall  
31 apply:

32 (1) "Contractor" means any person or entity that is a medical  
33 group, independent practice association, pharmaceutical benefits  
34 manager, or a medical service organization and is not a health  
35 care service plan or provider of health care. "Contractor" does  
36 not include insurance institutions as defined in subdivision (k) of  
37 Section 791.02 of the Insurance Code or pharmaceutical benefits  
38 managers licensed pursuant to the Knox-Keene Health Care  
39 Service Plan Act of 1975 (Chapter 2.2 (commencing with Section  
40 1340) of Division 2 of the Health and Safety Code).

1 (2) “Provider of health care” means any person licensed or  
2 certified pursuant to Division 2 (commencing with Section 500)  
3 of the Business and Professions Code; any person licensed  
4 pursuant to the Osteopathic Initiative Act or the Chiropractic  
5 Initiative Act; any person certified pursuant to Division 2.5  
6 (commencing with Section 1797) of the Health and Safety Code;  
7 any clinic, health dispensary, or health facility licensed pursuant  
8 to Division 2 (commencing with Section 1200) of the Health and  
9 Safety Code. “Provider of health care” does not include insurance  
10 institutions as defined in subdivision (k) of Section 791.02 of the  
11 Insurance Code.

12 (3) “Qualified entity” means health care providers and  
13 administrative staff for one of the following, who are HIPAA  
14 trained and who have legal access to confidential HIV-related  
15 medical records:

16 (A) The State Department of Health Care Services.

17 (B) The California Health Benefit Exchange (Exchange)  
18 established pursuant to Title 22 (commencing with Section 100500)  
19 of the Government Code.

20 (C) Medi-Cal managed care plans.

21 (D) Health plans participating in the Bridge Program.

22 (E) Health plans offered through the Exchange.

23 (F) County health care services.

24 (G) Any other medical coverage option provided pursuant to  
25 the PPACA.

26 (H) The Department of Managed Health Care.

27 (d) Information shared pursuant to this section shall not be  
28 disclosed, discoverable, or compelled to be produced in any civil,  
29 criminal, administrative, or other proceeding.

30 (e) All employees and contractors of a qualified entity who have  
31 legal access to confidential HIV-related medical records shall be  
32 required to sign confidentiality agreements developed by the State  
33 Department of Public Health that include information related to  
34 the penalties for a breach of confidentiality and the procedures  
35 for reporting a breach of confidentiality, prior to accessing  
36 confidential HIV-related medical records. Those agreements shall  
37 be reviewed annually by either the State Department of Public  
38 Health or the appropriate local health department.

39 (f) (1) Any potential or actual breach of confidentiality of  
40 HIV-related public health records shall be investigated by the

1 local health officer, in coordination with the department, when  
2 appropriate. The local health officer shall immediately report any  
3 evidence of an actual breach of confidentiality of HIV-related  
4 public health records at a city or county level to the department  
5 and the appropriate law enforcement agency as required by Section  
6 121022. Any potential or actual breach of confidentiality of  
7 HIV-related public health records shall be subject to subdivision  
8 (h) of Section 121022.

9 (2) The department shall investigate any potential or actual  
10 breach of confidentiality of HIV-related public health records at  
11 the state level, and shall report any evidence of such a breach of  
12 confidentiality to an appropriate law enforcement agency.

13 (g) Any willful, negligent, or malicious disclosure of reported  
14 cases of HIV infection in violation of subdivision (a) shall be  
15 subject to the penalties prescribed in Section 121025.

16 (h) Nothing in this section shall be construed to limit other  
17 remedies and protections available under state or federal law,  
18 including, but not limited to, the federal Health Insurance  
19 Portability and Accountability Act of 1996 (Public Law 104-191).

20 (i) If a confidential public health record, as defined in  
21 subdivision (c) of Section 121035, is disclosed, the information  
22 shall not be used to determine employability, or insurability of any  
23 person as provided under subdivision (f) of Section 120980,  
24 subdivision (f) of Section 121025, Section 121115, and Section  
25 121280.

26 (j) This section shall only be implemented to the extent permitted  
27 by federal law.

28 SEC. 6. No reimbursement is required by this act pursuant to  
29 Section 6 of Article XIII B of the California Constitution because  
30 the only costs that may be incurred by a local agency or school  
31 district will be incurred because this act creates a new crime or  
32 infraction, eliminates a crime or infraction, or changes the penalty  
33 for a crime or infraction, within the meaning of Section 17556 of  
34 the Government Code, or changes the definition of a crime within  
35 the meaning of Section 6 of Article XIII B of the California  
36 Constitution.

O