

Georgia

Introduction and Table of Contents

January 27, 2009

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.

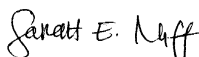
We update the *Compendium* periodically, but it is beyond the scope of the project to perform ongoing verification of every section frequently. We encourage readers to send comments, corrections, and updates (with citations when possible) to Sarah Neff at neffs@nccc.ucsf.edu.

Thank you,



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Director

&



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The Warmline, PEPLINE, and Perinatal Hotline are part of the National HIV/AIDS Clinicians' Consultation Center (NCCC) based at San Francisco General Hospital/ UCSF. The NCCC is a component of the **AIDS Education and Training Centers (AETC) Program** funded by the Ryan White CARE Act of the **Health Resources and Services Administration (HRSA)** HIV/AIDS Bureau in partnership with the **Centers for Disease Control and Prevention (CDC)**.

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Definitions and Helpful Resources

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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.¹
 - **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.¹
- **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.²
- **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.¹
- **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.³
- **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: NCCCTemp@nccc.ucsf.edu

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

¹ 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>

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

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

Georgia

A Quick Reference Guide for Clinicians to Georgia HIV Testing Laws

January 27, 2009

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

Informed Consent

- Consent is required; oral or written not specified.

Counseling

- Pre-test counseling and post-test medically appropriate counseling with confirmed HIV positive test result are required.
- Counseling of the spouse of HIV positive patient is required.

Provisos of Testing

- **Anonymous**
 - Testing must be made available anonymously.
 - Anonymous testing is available at designated anonymous testing sites.
- **Rapid**
 - No specific provisions regarding rapid testing were found.
- **Routine**
 - No specific provisions regarding routine testing were found.

Disclosure

- Notification to spouse of possible exposure to HIV is required.

Minor/Adolescent Testing

- Minors may consent to STD testing, HIV not explicitly included.
- Physicians may, but are not required to, notify the parents of the HIV test result.

Georgia

Perinatal Quick Reference Guide:

A Guide to Georgia Perinatal HIV Testing Laws for Clinicians

January 27, 2009

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

Prenatal

- Testing of pregnant women in prenatal care is through the opt-out process.
- Physicians responsible for care must test during gestation unless the woman refuses.

Labor & Delivery

- Testing of pregnant women at delivery is through the opt-out process.
- Physicians responsible for care must test at delivery unless the woman refuses.

Neonatal

- No specific provisions regarding neonatal testing were found.

Other

- N/A

Georgia
State Policies Relating to HIV Testing, 2009

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Official Code of Georgia Annotated [OCGA]

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Rules and Regulations of the State of Georgia [RR]

Chapter 290: Department of Human Resources..... Pages 31-34

	Policy Category	Type	Section Code(s)
RESTRICTIONS/MANDATES	Restrictions on use of HIV test	No related laws found	
	Mandatory testing within the criminal justice system	Juveniles convicted of a sex offense	OCGA § 15-11-66.1
		Persons convicted of pandering charges	OCGA § 16-6-13.1
		Persons convicted of prostitution	RR 290-5-480-.05
		Potential transmission to victims	OCGA § 17-10-15
		All inmates	OCGA § 42-5-52.1
	Mandatory testing outside of the criminal justice system	Procedures for refused consent – court orders	OCGA § 31-17A-3
		Mandatory testing of patient in health care worker exposure cases	OCGA § 31-22-9.2
Blood/organ/anatomical/semen donations		OCGA § 44-5-151 RR 290-5-50-.10	
PRE-TESTING	Mandatory offering of HIV/AIDS information and/or testing	Persons seeking marriage licenses must receive HIV information	OCGA § 19-3-35.1
	Informed consent	Consent required –not specified verbal vs. written	OCGA § 31-17A-2
	Counseling requirements	Mandatory pre-test counseling and medically appropriate post-test counseling (with confirmed HIV positive test results)	OCGA § 31-22-9.2

		Mandatory counseling of spouse of HIV+ person	OCGA § 24-9-47
		Providers required to refer HIV positive women to counseling and medical services	OCGA § 31-17-4.2
	Anonymous testing	Department of health must provide list with anonymous testing sites	OCGA § 19-3-35.1
POST-TESTI	Disclosure/confidentiality	Exceptions to confidentiality	OCGA § 24-9-47 RR 290-5-48-.09
		Notification of spouse of HIV+ person	OCGA § 24-9-47
		Penalties for unauthorized disclosure of HIV results	OCGA § 24-9-47
	Reporting	Name-based reporting	OCGA § 24-9-47 RR 290-5-48-.11
		Report of non-anonymous confirmed positive test results	OCGA § 24-9-47 RR 290-5-48-.11
OTHER	Testing of pregnant women and/or newborns	Pregnant women in prenatal care and at delivery – opt-out testing	OCGA § 31-17-4.2
		Physicians responsible for care must test during gestation and at delivery unless the woman refuses	OCGA § 31-17-4.2
	Testing of minors/adolescents	Minors may consent to treatment for STDs;	OCGA § 31-17-7
		Physician may, but is not required to, inform parent or guardian	
	Rapid HIV testing	No related laws found	
	Training and education of health care providers	No related laws found	

Recommended Resources

Official Georgia Code Annotated

<http://www.lexis-nexis.com/hottopics/gacode/default.asp>

Rules and Regulations of the State of Georgia

http://sos.georgia.gov/rules_regs.htm

Georgia Division of Health

<http://health.state.ga.us/>

Title 15: Courts

GA Title 15 Code §	Code Language
§ 15-11-66.1	<p>Disposition of child committing delinquent act constituting AIDS transmitting crime; submission to HIV test; report of results</p> <p>(a) Any term used in this Code section and defined in Code Section 31-22-9.1 shall have the meaning provided for such term in Code Section 31-22-9.1.</p> <p>(b) As part of any order of disposition regarding a child adjudged to have committed a delinquent act constituting an AIDS transmitting crime, the court may in its discretion and after conferring with the director of the health district, as such officer is provided for in Code Section 31-3-15, order that child to submit to an HIV test within 45 days following the adjudication of delinquency and shall mail the Department of Juvenile Justice a copy of such order within three days following the issuance thereof.</p> <p>(c) The Department of Juvenile Justice, within 30 days following receipt of the copy of order under subsection (b) of this Code section, shall arrange for the HIV test for the child ordered to submit thereto.</p> <p>(d) Any child sentenced to the custody and control of the Department of Corrections or the Department of Juvenile Justice shall be HIV tested in accordance with the policies and procedures of the respective department.</p> <p>(e) If a child is required by this Code section to submit to an HIV test and is thereby determined to be infected with HIV, that determination and the name of the child shall be deemed to be AIDS confidential information and shall be reported to:</p> <ol style="list-style-type: none"> (1) The Department of Juvenile Justice or the Department of Corrections, as the case may be, and the Department of Human Resources, the latter of which may disclose the name of the child if necessary to provide and shall provide counseling to each victim of that child's AIDS transmitting crime or to any parent or guardian of any victim who is a minor or incompetent person, if the Department of Juvenile Justice or the Department of Corrections believes the crime posed a reasonable risk of transmitting HIV to the victim; (2) The court which ordered the HIV test; and (3) Those persons in charge of any facility to which the child has been confined by order of the court. In addition to any other restrictions regarding the confinement of children, a child determined to be an HIV infected person may be confined in that facility separately from any other children in that facility other than those who have been determined to be infected with HIV if: <ol style="list-style-type: none"> (A) That child is reasonably believed to be sexually active while confined; (B) That child is reasonably believed to be sexually predatory either during or prior to detention; or (C) The commissioner of juvenile justice or the commissioner of

GA Title 15 Code §	Code Language
	corrections, as the case may be, reasonably determines that other circumstances or conditions exist which indicate that separate confinement would be warranted.

Title 16: Crimes and Offenses

GA Title 16 Code §	Code Language
§ 16-6-13.1	<p>Testing for sexually transmitted diseases required</p> <p>(a) Any term used in this Code section and defined in Code Section 31-22-9.1 shall have the meaning provided for such term in Code Section 31-22-9.1.</p> <p>(b) Upon a verdict or plea of guilty or a plea of nolo contendere to the offense of pandering, the court in which that verdict is returned or plea entered shall as a condition of probation or a suspended sentence require the defendant in such case to submit to testing for sexually transmitted diseases within 45 days following the date of the verdict or plea and to consent to release of the test results to the defendant's spouse if the defendant is married; provided, however, that a defendant who is not a resident of this state shall, upon a verdict or plea of guilty or a plea of nolo contendere, be ordered by the court to undergo immediate testing for sexually transmitted diseases and shall remain in the custody of the court until such testing is completed. The clerk of the court, in the case of a defendant who is a resident of this state, shall mail, within three days following the date of that verdict or plea, a copy of that verdict or plea to the Department of Human Resources. The tests for sexually transmitted diseases required under this subsection shall be limited to the eight most common sexually transmitted diseases as determined by the Department of Human Resources.</p> <p>(c) The Department of Human Resources, within 30 days following the notification under subsection (b) of this Code section, shall arrange for the tests for the person required to submit thereto. Such person shall bear the costs of such tests.</p> <p>(d) Any person required under this Code section to submit to testing for sexually transmitted diseases who fails or refuses to submit to the tests arranged pursuant to subsection (c) of this Code section shall be subject to such measures deemed necessary by the court in which the verdict was returned or plea entered to require voluntary submission to the tests.</p>

Title 17: Criminal Procedure

GA Title 17 Code §	Code Language
§ 17-10-15	<p>AIDS transmitting crimes; requiring defendant to submit to HIV test; report of results</p> <p>(a) Any term used in this Code section and defined in Code Section 31-22-9.1 shall have the meaning provided for such term in Code Section 31-22-9.1.</p> <p>(b) A victim or the parent or legal guardian of a minor or incompetent victim of a sexual offense as defined in Code Section 31-22-9.1 or other crime which involves significant exposure as defined by subsection (g) of this Code section may request that the agency responsible for prosecuting the alleged offense request that the person arrested for such offense submit to a test for the human immunodeficiency virus and consent to the release of the test results to the victim. If the person so arrested declines to submit to such a test, the judge of the superior court in which the criminal charge is pending, upon a showing of probable cause that the person arrested for the offense committed the alleged crime and that significant exposure occurred, may order the test to be performed in compliance with the rules adopted by the Department of Human Resources. The cost of the test shall be borne by the victim or by the arrested person, in the discretion of the court.</p> <p>(c) Upon a verdict or plea of guilty or a plea of nolo contendere to any AIDS transmitting crime, the court in which that verdict is returned or plea entered shall require the defendant in such case to submit to an HIV test within 45 days following the date of such verdict or plea. The clerk of the court in such case shall mail, within three days following the date of that verdict or plea, a copy of that verdict or plea to the Department of Human Resources.</p> <p>(d) The Department of Human Resources, within 30 days following receipt of the court's order under subsection (b) of this Code section or within 30 days following receipt of the copy of the verdict or plea under subsection (c) of this Code section, shall arrange for the HIV test for the person required to submit thereto.</p> <p>(e) Any person required under this Code section to submit to the HIV test who fails or refuses to submit to the test arranged pursuant to subsection (d) of this Code section shall be subject to such measures deemed necessary by the court in which the order was entered, verdict was returned, or plea was entered to require involuntary submission to the HIV test, and submission thereto may also be made a condition of suspending or probating any part of that person's sentence for the AIDS transmitting crime.</p> <p>(f) If a person is required by this Code section to submit to an HIV test and is thereby determined to be infected with HIV, that determination and the name of the person shall be reported to:</p>

GA Title 17 Code §	Code Language
	<p>(1) The Department of Human Resources, which shall disclose the name of the person as necessary to provide counseling to each victim of that person's AIDS transmitting crime if that crime is other than one specified in subparagraph (a)(3)(J) of Code Section 31-22-9.1 or to any parent or guardian of any such victim who is a minor or incompetent person;</p> <p>(2) The court which ordered the HIV test, which court shall make that report a part of that person's criminal record. That report shall be sealed by the court; and</p> <p>(3) The officer in charge of any penal institution or other facility in which the person has been confined by order or sentence of the court for purposes of enabling that officer to confine the person separately from those not infected with HIV.</p> <p>(g) For the purpose of subsection (b) of this Code section, "significant exposure" means contact of the victim's ruptured or broken skin or mucous membranes with the blood or body fluids of the person arrested for such offense, other than tears, saliva, or perspiration, of a magnitude that the Centers for Disease Control have epidemiologically demonstrated can result in transmission of the human immunodeficiency virus.</p> <p>(h) The state may not use the fact that a medical procedure or test was performed on a person under this Code section or use the results of the procedure or test in any criminal proceeding arising out of the alleged offense.</p>

Title 19: Domestic Relations

GA Title 19 Code §	Code Language
§ 19-3-35.1	<p>AIDS brochures; listing of HIV test sites; acknowledgment of receipt</p> <p>(a) Any term used in this Code section and defined in Code Section 31-22-9.1 shall have the meaning provided for such term in Code Section 31-22-9.1.</p> <p>(b) The Department of Human Resources shall prepare a brochure describing AIDS, HIV, and the dangers, populations at risk, risk behaviors, and prevention measures relating thereto. That department shall also prepare a listing of sites at which confidential and anonymous HIV tests are provided without charge. That department shall further prepare a form for acknowledging that the brochures and listings have been received, as required by subsection (c) of this Code section. The brochures, listings, and forms prepared by the Department of Human Resources under this subsection shall be prepared and furnished to the office of each judge of the probate court no later than October 1, 1988.</p> <p>(c) On and after October 1, 1988, each person who makes application for a marriage license shall receive from the office of the probate judge at the time of the application the AIDS brochure and listing of HIV test sites prepared and furnished pursuant to subsection (b) of this Code section. On and after October 1, 1988, no marriage license shall be issued unless both the proposed husband and the proposed wife sign a form acknowledging that both have received the brochure and listing.</p>

Title 24: Evidence

GA Title 24 Code §	Code Language
§ 24-9-47	<p>Disclosure of AIDS confidential information</p> <p>(a) Any term used in this Code section and defined in Code Section 31-22-9.1 shall have the meaning provided for such term in Code Section 31-22-9.1.</p> <p>(b) Except as otherwise provided in this Code section:</p> <p>(1) No person or legal entity which receives AIDS confidential information pursuant to this Code section or which is responsible for recording, reporting, or maintaining AIDS confidential information shall:</p> <p>(A) Intentionally or knowingly disclose that information to another person or legal entity; or</p> <p>(B) Be compelled by subpoena, court order, or other judicial process to disclose that information to another person or legal entity; and</p> <p>(2) No person or legal entity which receives AIDS confidential information which that person or legal entity knows was disclosed in violation of paragraph (1) of this subsection shall:</p> <p>(A) Intentionally or knowingly disclose that information to another person or legal entity; or</p> <p>(B) Be compelled by subpoena, court order, or other judicial process to disclose that information to another person or legal entity.</p> <p>(c) AIDS confidential information may be disclosed to the person identified by that information or, if that person is a minor or incompetent person, to that person's parent or legal guardian.</p> <p>(d) AIDS confidential information may be disclosed to any person or legal entity designated to receive that information when that designation is made in writing by the person identified by that information or, if that person is a minor or incompetent person, by that person's parent or legal guardian.</p> <p>(e) AIDS confidential information may be disclosed to any agency or department of the federal government, this state, or any political subdivision of this state if that information is authorized or required by law to be reported to that agency or department.</p> <p>(f) The results of an HIV test may be disclosed to the person, or that person's designated representative, who ordered such tests of the body fluids or tissue of another person.</p> <p>(g) When the patient of a physician has been determined to be infected with HIV and that patient's physician reasonably believes that the spouse or sexual partner or any child of the patient, spouse, or sexual partner is a person at risk of being infected with HIV by that patient, the physician may disclose to that spouse, sexual partner, or child that the patient has been determined to be infected with HIV, after first attempting to notify the patient that such disclosure is going to be made.</p>

GA Title 24 Code §	Code Language
	<p>(h)(1) An administrator of an institution licensed as a hospital by the Department of Human Resources or a physician having a patient who has been determined to be infected with HIV may disclose to the Department of Human Resources:</p> <ul style="list-style-type: none"> (A) The name and address of that patient; (B) That such patient has been determined to be infected with HIV; and (C) The name and address of any other person whom the disclosing physician or administrator reasonably believes to be a person at risk of being infected with HIV by that patient. <p>(2) When mandatory and nonanonymous reporting of confirmed positive HIV tests to the Department of Human Resources is determined by that department to be reasonably necessary, that department shall establish by regulation a date on and after which such reporting shall be required. On and after the date so established, each health care provider, health care facility, or any other person or legal entity which orders an HIV test for another person shall report to the Department of Human Resources the name and address of any person thereby determined to be infected with HIV. No such report shall be made regarding any confirmed positive HIV test provided at any anonymous HIV test site operated by or on behalf of the Department of Human Resources.</p> <p>(3) The Department of Human Resources may disclose that a person has been reported, under paragraph (1) or (2) of this subsection, to have been determined to be infected with HIV to the board of health of the county in which that person resides or is located if reasonably necessary to protect the health and safety of that person or other persons who may have come in contact with the body fluids of the HIV infected person. The Department of Human Resources or county board of health to which information is disclosed pursuant to this paragraph or paragraph (1) or (2) of this subsection:</p> <ul style="list-style-type: none"> (A) May contact any person named in such disclosure as having been determined to be an HIV infected person for the purpose of counseling that person and requesting therefrom the name of any other person who may be a person at risk of being infected with HIV by that HIV infected person; (B) May contact any other person reasonably believed to be a person at risk of being infected with HIV by that HIV infected person for the purposes of disclosing that such infected person has been determined to be infected with HIV and counseling such person to submit to an HIV test; and (C) Shall contact and provide counseling to the spouse of any HIV infected person whose name is thus disclosed if both persons are reasonably likely to have engaged in sexual intercourse or any other act determined by the department likely to have resulted in the transmission of HIV between such persons within the preceding seven years and if that spouse may be located and contacted without undue difficulty. <p>(i) Any health care provider authorized to order an HIV test may disclose AIDS confidential information regarding a patient thereof if that disclosure is made to a health care provider or health care facility which has provided, is providing, or will provide any health care service to that patient and as a result of such provision of service that health care provider or facility:</p> <ul style="list-style-type: none"> (1) Has personnel or patients who may be persons at risk of being infected with HIV by that patient, if that patient is an HIV infected person and such

GA Title 24 Code §	Code Language
	<p>disclosure is reasonably necessary to protect any such personnel or patients from that risk; or</p> <p>(2) Has a legitimate need for that information in order to provide that health care service to that patient.</p> <p>(j) A health care provider or any other person or legal entity authorized but not required to disclose AIDS confidential information pursuant to this Code section shall have no duty to make such disclosure and shall not be liable to the patient or any other person or legal entity for failing to make such disclosure. A health care provider or any other person or legal entity which discloses information as authorized or required by this Code section or as authorized or required by law or rules or regulations made pursuant thereto shall have no civil or criminal liability therefor.</p> <p>(k) When any person or legal entity is authorized or required by this Code section or any other law to disclose AIDS confidential information to a person at risk of being infected with HIV and that person at risk is a minor or incompetent person, such disclosure may be made to any parent or legal guardian of the minor or incompetent person, to the minor or incompetent person, or to both the minor or incompetent person and any parent or legal guardian thereof.</p> <p>(l) When an institutional care facility is the site at which a person is at risk of being infected with HIV and as a result of that risk a disclosure of AIDS confidential information to any person at risk at that site is authorized or required under this Code section or any other law, such disclosure may be made to the person at risk or to that institutional care facility's chief administrative or executive officer, or such officer's designee, in which case that officer or designee is authorized to make such disclosure to the person at risk.</p> <p>(m) When a disclosure of AIDS confidential information is authorized or required by this Code section to be made to a physician, health care provider, or legal entity, that disclosure may be made to employees of that physician, health care provider, or legal entity who have been designated thereby to receive such information on behalf thereof. Those designated employees may thereafter disclose to and provide for the disclosure of that information among such other employees of that physician, health care provider, or legal entity, but such disclosures among those employees are only authorized when reasonably necessary in the ordinary course of business to carry out the purposes for which that disclosure is authorized or required to be made to that physician, health care provider, or legal entity.</p> <p>(n) Any disclosure of AIDS confidential information authorized or required by this Code section or any other law and any unauthorized disclosure of such information shall in no way destroy the confidential nature of that information except for the purpose for which the authorized or required disclosure is made.</p> <p>(o) Any person or legal entity which violates subsection (b) of this Code</p>

GA Title 24 Code §	Code Language
	<p>section shall be guilty of a misdemeanor.</p> <p>(p) Nothing in this Code section or any other law shall be construed to authorize the disclosure of AIDS confidential information if that disclosure is prohibited by federal law, or regulations promulgated thereunder, nor shall anything in this Code section or any other law be construed to prohibit the disclosure of information which would be AIDS confidential information except that such information does not permit the identification of any person.</p> <p>(q) A public safety agency or district attorney may obtain the results from an HIV test to which the person named in the request has submitted under Code Section 15-11-66.1, 17-10-15, 42-5-52.1, or 42-9-42.1, notwithstanding that the results may be contained in a sealed record.</p> <p>(r) Any person or legal entity required by an order of a court to disclose AIDS confidential information in the custody or control of such person or legal entity shall disclose that information as required by that order.</p> <p>(s) AIDS confidential information may be disclosed as medical information pursuant to Code Section 24-9-40, relating to the release of medical information, or pursuant to any other law which authorizes or requires the disclosure of medical information if:</p> <ol style="list-style-type: none"> (1) The person identified by that information: <ol style="list-style-type: none"> (A) Has consented in writing to that disclosure; or (B) Has been notified of the request for disclosure of that information at least ten days prior to the time the disclosure is to be made and does not object to such disclosure prior to the time specified for that disclosure in that notice; or (2) A superior court in an in camera hearing finds by clear and convincing evidence a compelling need for the information which cannot be accommodated by other means. In assessing compelling need, the court shall weigh the public health, safety, or welfare needs or any other public or private need for the disclosure against the privacy interest of the person identified by the information and the public interest which may be disserved by disclosures which may deter voluntary HIV tests. If the court determines that disclosure of that information is authorized under this paragraph, the court shall order that disclosure and impose appropriate safeguards against any unauthorized disclosure. The records of that hearing otherwise shall be under seal. <p>(t)(1) A superior court of this state may order a person or legal entity to disclose AIDS confidential information in its custody or control to:</p> <ol style="list-style-type: none"> (A) A prosecutor in connection with a prosecution for the alleged commission of reckless conduct under subsection (c) of Code Section 16-5-60; (B) Any party in a civil cause of action; or (C) A public safety agency or the Department of Human Resources if that agency or department has an employee thereof who has, in the course of that employment, come in contact with the body fluids of the person

GA Title 24 Code §	Code Language
	<p>identified by the AIDS confidential information sought in such a manner reasonably likely to cause that employee to become an HIV infected person and provided the disclosure is necessary for the health and safety of that employee, and for purposes of this subsection the term "petitioner for disclosure" means any person or legal entity specified in subparagraph (A), (B), or (C) of this paragraph.</p> <p>(2) An order may be issued against a person or legal entity responsible for recording, reporting, or maintaining AIDS confidential information to compel the disclosure of that information if the petitioner for disclosure demonstrates by clear and convincing evidence a compelling need for the information which cannot be accommodated by other means. In assessing compelling need, the court shall weigh the public health, safety, or welfare needs or any other public or private need for the disclosure against the privacy interest of the person identified by the information and the public interest which may be disserved by disclosures which may deter voluntary HIV tests.</p> <p>(3) A petition seeking disclosure of AIDS confidential information under this subsection shall substitute a pseudonym for the true name of the person concerning whom the information is sought. The disclosure to the parties of that person's true name shall be communicated confidentially, in documents not filed with the court.</p> <p>(4) Before granting any order under this subsection, the court shall provide the person concerning whom the information is sought with notice and a reasonable opportunity to participate in the proceedings if that person is not already a party.</p> <p>(5) Court proceedings as to disclosure of AIDS confidential information under this subsection shall be conducted in camera unless the person concerning whom the information is sought agrees to a hearing in open court.</p> <p>(6) Upon the issuance of an order that a person or legal entity be required to disclose AIDS confidential information regarding a person named in that order, that person or entity so ordered shall disclose to the ordering court any such information which is in the control or custody of that person or entity and which relates to the person named in the order for the court to make an in camera inspection thereof. If the court determines from that inspection that the person named in the order is an HIV infected person, the court shall disclose to the petitioner for disclosure that determination and shall impose appropriate safeguards against unauthorized disclosure which shall specify the persons who may have access to the information, the purposes for which the information shall be used, and appropriate prohibitions on future disclosure.</p> <p>(7) The record of the proceedings under this subsection shall be sealed by the court.</p> <p>(8) An order may not be issued under this subsection against the Department of Human Resources, any county board of health, or any anonymous HIV test site operated by or on behalf of that department.</p> <p>(u) A health care provider, health care facility, or other person or legal entity who, in violation of this Code section, unintentionally discloses AIDS confidential information, notwithstanding the maintenance of procedures</p>

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	<p>thereby which are reasonably adopted to avoid risk of such disclosure, shall not be civilly or criminally liable, unless such disclosure was due to gross negligence or wanton and willful misconduct.</p> <p>(v) AIDS confidential information may be disclosed when that disclosure is otherwise authorized or required by Code Section 42-1-6, if AIDS or HIV infection is the communicable disease at issue, or when that disclosure is otherwise authorized or required by any law which specifically refers to "AIDS confidential information," "HIV test results," or any similar language indicating a legislative intent to disclose information specifically relating to AIDS or HIV.</p> <p>(w) A health care provider who has received AIDS confidential information regarding a patient from the patient's health care provider directly or indirectly under the provisions of subsection (i) of this Code section may disclose that information to a health care provider which has provided, is providing, or will provide any health care service to that patient and as a result of that provision of service that health care provider:</p> <p>(1) Has personnel or patients who may be persons at risk of being infected with HIV by that patient, if that patient is an HIV infected person and such disclosure is reasonably necessary to protect any such personnel or patients from that risk; or</p> <p>(2) Has a legitimate need for that information in order to provide that health care service to that patient.</p> <p>(x) Neither the Department of Human Resources nor any county board of health shall disclose AIDS confidential information contained in its records unless such disclosure is authorized or required by this Code section or any other law, except that such information in those records shall not be a public record and shall not be subject to disclosure through subpoena, court order, or other judicial process.</p> <p>(y) The protection against disclosure provided by Code Section 24-9-40.1 shall be waived and AIDS confidential information may be disclosed to the extent that the person identified by such information, his heirs, successors, assigns, or a beneficiary of such person, including but not limited to an executor, administrator, or personal representative of such person's estate:</p> <p>(1) Files a claim or claims other entitlements under any insurance policy or benefit plan or is involved in any civil proceeding regarding such claim;</p> <p>(2) Places such person's care and treatment, the nature and extent of his injuries, the extent of his damages, his medical condition, or the reasons for his death at issue in any civil or criminal proceeding; or</p> <p>(3) Is involved in a dispute regarding coverage under any insurance policy or benefit plan.</p> <p>(z) AIDS confidential information may be collected, used, and disclosed by an insurer in accordance with the provisions of Chapter 39 of Title 33, relating to the collection, use, and disclosure of information gathered by insurance institutions.</p>

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	<p>(aa) In connection with any civil or criminal action in which AIDS confidential information is disclosed as authorized or required by this Code section, the party to whom that information is thereby disclosed may subpoena any person to authenticate such AIDS confidential information, establish a chain of custody relating thereto, or otherwise testify regarding that information, including but not limited to testifying regarding any notifications to the patient regarding results of an HIV test. The provisions of this subsection shall apply as to records, personnel, or both of the Department of Human Resources or a county board of health notwithstanding Code Section 50-18-72, but only as to test results obtained by a prosecutor under subsection (q) of this Code section and to be used thereby in a prosecution for reckless conduct under subsection (c) of Code Section 16-5-60.</p> <p>(bb) AIDS confidential information may be disclosed as a part of any proceeding or procedure authorized or required pursuant to Chapter 3, 4, or 7 of Title 37, regarding a person who is alleged to be or who is mentally ill, mentally retarded, or alcoholic or drug dependent, or as a part of any proceeding or procedure authorized or required pursuant to Title 29, regarding the guardianship of a person or that person's estate, as follows:</p> <p>(1) Any person who files or transmits a petition or other document which discloses AIDS confidential information in connection with any such proceeding or procedure shall provide a cover page which contains only the type of proceeding or procedure, the court in which the proceeding or procedure is or will be pending, and the words "CONFIDENTIAL INFORMATION" without in any way otherwise disclosing thereon the name of any individual or that such petition or other document specifically contains AIDS confidential information;</p> <p>(2) AIDS confidential information shall only be disclosed pursuant to this subsection after disclosure to and with the written consent of the person identified by that information, or that person's parent or guardian if that person is a minor or has previously been adjudicated as being incompetent, or by order of court obtained in accordance with subparagraph (C) of paragraph (3) of this subsection;</p> <p>(3) If any person files or transmits a petition or other document in connection with any such proceeding or procedure which discloses AIDS confidential information without obtaining consent as provided in paragraph (2) of this subsection, the court receiving such information shall either obtain written consent as set forth in that paragraph (2) for any further use or disclosure of such information or:</p> <p>(A) Return such petition or other document to the person who filed or transmitted same, with directions against further filing or transmittal of such information in connection with such proceeding or procedure except in compliance with this subsection;</p> <p>(B) Delete or expunge all references to such AIDS confidential information from the particular petition or other document; or</p> <p>(C)(i) (For effective date, see note) If the court determines there is a compelling need for such information in connection with the particular proceeding or procedure, petition a superior court of competent jurisdiction for permission to obtain or disclose that information. If the person identified by the information is not yet represented by an attorney in the proceeding or</p>

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	<p>procedure in connection with which the information is sought, the petitioning court shall appoint an attorney for such person. The petitioning court shall have both that person and that person's attorney personally served with notice of the petition and time and place of the superior court hearing thereon. Such hearing shall not be held sooner than 72 hours after service, unless the information is to be used in connection with an emergency guardianship proceeding under Code Section 29-4-14, in which event the hearing shall not be held sooner than 48 hours after service.</p> <p>(ii) The superior court in which a petition is filed pursuant to division (i) of this subparagraph shall hold an in camera hearing on such petition. The purpose of the hearing shall be to determine whether there is clear and convincing evidence of a compelling need for the AIDS confidential information sought in connection with the particular proceeding or procedure which cannot be accommodated by other means. In assessing compelling need, the superior court shall weigh the public health, safety, or welfare needs or any other public or private need for the disclosure against the privacy interest of the person identified by the information and the public interest which may be disserved by disclosures which may deter voluntary HIV tests. If the court determines that disclosure of that information is authorized under this subparagraph, the court shall order that disclosure and impose appropriate safeguards against any unauthorized disclosure. The records of that hearing otherwise shall be under seal; and</p> <p>(4) The court having jurisdiction over such proceeding or procedure, when it becomes apparent that AIDS confidential information will likely be or has been disclosed in connection with such proceeding or procedure, shall take such measures as the court determines appropriate to preserve the confidentiality of the disclosed information to the maximum extent possible. Such measures shall include, without being limited to, closing the proceeding or procedure to the public and sealing all or any part of the records of the proceeding or procedure containing AIDS confidential information. The records of any appeals taken from any such proceeding or procedure shall also be sealed. Furthermore, the court may consult with and obtain the advice of medical experts or other counsel or advisers as to the relevance and materiality of such information in such proceedings or procedures, so long as the identity of the person identified by such information is not thereby revealed.</p>

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§ 31-17-4.2	<p>HIV Pregnancy Screening</p> <p>(a) This Code section shall be known and may be cited as the 'Georgia HIV Pregnancy Screening Act of 2007.'</p> <p>(b) Every physician and health care provider who assumes responsibility for the prenatal care of pregnant women during gestation and at delivery shall be required to test pregnant women for HIV except in cases where the woman refuses the testing.</p> <p>(c) If at the time of delivery there is no written evidence that an HIV test has been performed, the physician or other health care provider in attendance at the delivery shall order that a sample of the woman's blood be taken or a rapid oral test administered at the time of the delivery except in cases where the woman refuses the testing.</p> <p>(d) The woman shall be informed of the test to be conducted and her right to refuse. A pregnant woman shall submit to an HIV test pursuant to this Code section unless she specifically declines. If the woman tests positive, counseling services provided by the Department of Human Resources shall be made available to her and she shall be referred to appropriate medical care providers for herself and her child.</p> <p>(e) If for any reason the pregnant woman is not tested for HIV, that fact shall be recorded in the patient's records, which, if based upon the refusal of the patient, shall relieve the physician or other health care provider of any other responsibility under this Code section.</p> <p>(f) The Department of Human Resources shall be authorized to promulgate rules and regulations for the purpose of administering the requirements under this Code section."</p>
§ 31-17-7	<p>Consent of minor to medical or surgical care or services; informing spouse, parent, custodian, or guardian</p> <p>(a) The consent to the provision of medical or surgical care or services by a hospital or public clinic or to the performance of medical or surgical care or services by a physician licensed to practice medicine and surgery, when such consent is given by a minor who is or professes to be afflicted with a venereal disease, shall be as valid and binding as if the minor had achieved his majority, provided that any such treatment shall involve procedures and therapy related to conditions or illnesses arising out of the venereal disease which gave rise to the consent authorized under this Code section. Any such consent shall not be subject to later disaffirmation by reason of minority. The consent of no other person or persons, including but not limited to a spouse, parent, custodian, or guardian, shall be necessary in order to authorize the provision to such minor of such medical or surgical care or services as are described in this subsection.</p>

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	(b) Upon the advice and direction of a treating physician or, if more than one, of any one of them, a member of the medical staff of a hospital or public clinic or a physician licensed to practice medicine and surgery may, but shall not be obligated to, inform the spouse, parent, custodian, or guardian of any such minor as to the treatment given or needed. Such information may be given to or withheld from the spouse, parent, custodian, or guardian without the consent of the minor patient and even over the express refusal of the minor patient to the providing of such information.
§ 31-17A-2	<p>Examination of infected persons; administration of HIV test</p> <p>The authorized agent or agents of the Department of Human Resources are directed and empowered, when in their judgment it is necessary to protect the public health, to make examinations of persons infected or suspected of being infected with HIV and to administer an HIV test with the consent of the person being tested. In the event the person infected or suspected of being infected with HIV refuses to consent to the administration of an HIV test, the authorized agent or agents of the Department of Human Resources are authorized to petition the court for an order authorizing the administration of an HIV test pursuant to the procedure set forth in Code Section 31-17A-3.</p>
§ 31-17A-3	<p>Refusal to consent to test; procedure</p> <p>(a) If a person refuses to consent to an HIV test, as provided in Code Section 31-17A-2, the Department of Human Resources may file a civil complaint with the superior court of the county of the residence of the person refusing the test. The complaint shall allege with specificity the basis for the allegations which the department believes support the conclusion that the person is infected with HIV, as well as the scope, nature, and threat to the public health created thereby, and the proposed plan to be adopted to protect the public health in the event the court orders the administration of the HIV test and the person is found to be an HIV infected person. The person against whom the complaint is filed shall be represented by counsel, and, in the event the person against whom the complaint is filed cannot afford counsel, counsel shall be appointed by the court.</p> <p>(b) The superior court shall hear the complaint on an expedited basis without a jury. All proceedings before the court shall be sealed.</p> <p>(c) If after consideration of the evidence, the court finds clear and convincing evidence that the person is reasonably likely to be infected with HIV and that there is a compelling need to protect the public health, the court may order the person to submit to an HIV test, shall retain jurisdiction to render such orders as are appropriate to effectuate that order, and, in the event the person so tested is determined to be infected with HIV, to require such procedures to protect the public health consistent with the least restrictive alternative which is available within the limits of state funds specifically appropriated therefor.</p>

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§ 31-22-2	<p>Licenses</p> <p>(a) No clinical laboratory shall be operated without a license issued and in force pursuant to this chapter; provided, however, that the department may promulgate rules and regulations by which a facility or a part of a facility in which laboratory testing is done may qualify for exemption from licensure when only specific tests or techniques, designated by the department and used for screening and monitoring purposes only, are performed.</p> <p>(b) Application for licenses shall be made to the Department of Human Resources on forms prescribed by it. The application shall indicate the categories of procedures to be performed and shall contain such additional information as the department may require. Each application shall be accompanied by a nonrefundable fee prescribed by the department.</p> <p>(c) The license applied for shall be issued if the department finds that all requirements are met or, in the case of a new clinical laboratory not yet in operation, that the owner is in a position to meet them. A license shall authorize the performance of one or more procedures or categories of procedures and shall be valid for one year from the date of issue unless sooner canceled, suspended, or revoked.</p> <p>(d) A clinical laboratory license may be denied, revoked, suspended, limited, or renewal thereof denied on the following grounds:</p> <ol style="list-style-type: none"> (1) Making false statements of material information on an application for clinical laboratory license or any other documents required by the department; (2) Permitting unauthorized persons to perform technical procedures or to issue or sign reports; (3) Demonstrating incompetence in the performance or reporting of clinical laboratory examinations and procedures; (4) Performing a test for or rendering a report to a person not authorized by law to receive such services; (5) Referring a specimen for examination to a clinical laboratory in this state which has not been licensed pursuant to this chapter unless such referral laboratory is exempted from coverage of this chapter; (6) Making a report on clinical laboratory work actually performed in another clinical laboratory without designating the name of the director and the name and address of the clinical laboratory in which the test was performed; (7) Lending the use of the name of the licensed clinical laboratory or its personnel to an unlicensed clinical laboratory; (8) Violating or aiding in the violation of any provision of this chapter or the rules or regulations promulgated hereunder; or (9) Violating any other provisions of law applicable to the proper operation of a clinical laboratory. <p>(e) Each clinical laboratory shall have a licensed director. An individual shall be permitted to direct no more than three clinical laboratories. No individual shall function as a director of a clinical laboratory unless he is a physician</p>

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	<p>licensed to practice medicine and surgery pursuant to Chapter 34 of Title 43; provided, however, that the director of a clinical laboratory restricting its practice to dental pathology may be either a physician licensed to practice medicine and surgery or a dentist licensed to practice dentistry; provided, further, that the board may promulgate rules and regulations which authorize persons who possess doctorate degrees in biology, microbiology, and related fields to be directors of clinical laboratories when the proper circumstances and qualifications are present.</p> <p>(f) A clinical laboratory license shall specify on the face thereof the names of the owner and director, procedures or categories of procedures authorized, the location at which such procedures are to be performed, and the period for which the license is valid. The license shall be displayed at all times in a prominent place where it may be viewed by the public.</p> <p>(g) Licenses issued pursuant to this chapter shall be subject to renewal in accordance with rules and regulations of the department.</p> <p>(h) The board shall fix and publish and from time to time revise schedules of fees for applications and renewals. Such fees for clinical laboratory licenses shall be in amounts calculated to defray the costs of necessary inspections, evaluations, and investigations related thereto.</p> <p>(i) The board shall promulgate rules and regulations which specify minimum standards for laboratory supervisors; provided, however, that nothing in this chapter shall be construed to affect any director, supervisor, technologist, or technician who is holding any such position on July 1, 1970.</p> <p>(j) For the purposes of licensure, specimen collection stations which have a parent clinical laboratory licensed by the State of Georgia may be considered by the department to be part of that laboratory.</p>
§ 31-22-4	<p>Examination of human specimens</p> <p>(a) A clinical laboratory shall examine human specimens only at the request of a licensed physician, dentist, or other person authorized by law to use the findings of laboratory examinations.</p> <p>(b) All specimens accepted by a clinical laboratory shall be tested on the premises or in another laboratory or location under the responsibility of the director unless forwarded to another properly licensed clinical laboratory.</p> <p>(c) The results of a test shall be reported only to or as directed by the licensed physician, dentist, or other authorized person requesting such test. Such reports shall include the name of the director and the name and address of the clinical laboratory in which the test was performed.</p> <p>(d) No person shall represent or maintain an office or specimen collection station or other facility for the representation of any clinical laboratory situated in this state or any other state which makes examinations in</p>

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	<p>connection with the diagnosis and control of diseases unless the clinical laboratory so represented shall meet or exceed the minimum standards issued by the department pursuant to this chapter and the regulations issued under this chapter.</p> <p>(e) The department may require laboratories to show evidence that specimens shipped through the mails and accepted by them for analysis are sufficiently stable for the determinations requested.</p> <p>(f) Records involving clinical laboratory services and copies of reports of laboratory tests shall be kept for the period of time and in the manner prescribed by the department.</p> <p>(g) Each clinical laboratory shall establish its own quality assurance program designed to ensure testing accuracy and in accordance with the rules and regulations promulgated by the department. The quality assurance program shall also include the use of, where applicable, calibration and control practices designed to ensure accurate and reliable test processes.</p> <p>(h) Subsections (a) through (c) of this Code section shall not apply to the taking, examining, or testing of specimens by a clinical laboratory or its personnel solely in order to test the accuracy or sufficiency of its procedures or in order to make improvements in such procedures.</p>
§ 31-22-5	<p>Methods for selection of blood donors and collection, storage, and processing of human blood</p> <p>(a) Those clinical laboratories which provide a system for the collection, processing, or storage of human blood and its component parts shall provide methods for the selection of blood donors as well as methods for the collection, storage, processing, and transfusion of blood, which shall ensure that the blood donation will not be detrimental to the donor and to protect the ultimate recipient of human blood or any of its component parts from infectious disease known to be transmissible by blood.</p> <p>(b) The methods described in subsection (a) of this Code section shall conform to the most recent "Standards for Blood Banks and Transfusion Services" published by the American Association of Blood Banks; provided, however, that the board may modify the standards published by the American Association of Blood Banks by adopting separate or supplementary rules and regulations to ensure that the blood donation will not be detrimental to the donor and will protect the ultimate recipient of human blood or any of its component parts from diseases known to be transmissible by blood.</p>
§ 31-22-7	<p>Reports to department</p> <p>(a) The department shall require reporting by clinical laboratories of evidence of such infectious diseases as the department may specify and shall furnish forms for such reporting. No clinical laboratory making reports shall be held</p>

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	<p>liable for having violated a trust or confidential relationship. The reports submitted shall be deemed confidential and not subject to public inspection.</p> <p>(b) Every director of a clinical laboratory shall report to the department such information regarding the operation of the clinical laboratory as the department by its rules and regulations may require in order to aid in the proper administration of this chapter.</p>
§ 31-22-8	<p>Inspections; evaluation program</p> <p>(a) The department shall make periodic inspections of every clinical laboratory, at its discretion. In lieu of or to supplement its own inspection program, the department may use results of inspections conducted by other accrediting agencies. For the purpose of this subsection, the employees or agents of the department shall have the right of entry into the premises of the laboratory during normal hours of operation.</p> <p>(b) The department shall operate a clinical laboratory evaluation program and shall prescribe standards of performance in the examination of specimens. As part of the clinical laboratory evaluation program, the department may require the clinical laboratory to analyze test samples submitted or authorized by the department and report on the results of such analysis.</p>
§ 31-22-9.1	<p>HIV tests -- Who may perform test</p> <p>(a) As used in this Code section, the term:</p> <p>(1) "AIDS" means Acquired Immunodeficiency Syndrome or AIDS Related Complex within the reporting criteria of the department.</p> <p>(2) "AIDS confidential information" means information which discloses that a person:</p> <ul style="list-style-type: none"> (A) Has been diagnosed as having AIDS; (B) Has been or is being treated for AIDS; (C) Has been determined to be infected with HIV; (D) Has submitted to an HIV test; (E) Has had a positive or negative result from an HIV test; (F) Has sought and received counseling regarding AIDS; or (G) Has been determined to be a person at risk of being infected with AIDS, and which permits the identification of that person. <p>(3) "AIDS transmitting crime" means any of the following offenses specified in Title 16:</p> <ul style="list-style-type: none"> (A) Rape; (B) Sodomy; (C) Aggravated sodomy; (D) Child molestation; (E) Aggravated child molestation; (F) Prostitution; (G) Solicitation of sodomy;

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	<p>(H) Incest; (I) Statutory rape; or (J) Any offense involving a violation of Article 2 of Chapter 13 of Title 16, regarding controlled substances, if that offense involves heroin, cocaine, derivatives of either, or any other controlled substance in Schedule I, II, III, IV, or V and that other substance is commonly intravenously injected, as determined by the regulations of the department.</p> <p>(4) "Body fluids" means blood, semen, or vaginal secretions.</p> <p>(5) "Confirmed positive HIV test" means the results of at least two separate types of HIV tests, both of which indicate the presence of HIV in the substance tested thereby.</p> <p>(6) "Counseling" means providing the person with information and explanations medically appropriate for that person which may include all or part of the following: accurate information regarding AIDS and HIV; an explanation of behaviors that reduce the risk of transmitting AIDS and HIV; an explanation of the confidentiality of information relating to AIDS diagnoses and HIV tests; an explanation of information regarding both social and medical implications of HIV tests; and disclosure of commonly recognized treatment or treatments for AIDS and HIV. The Department of Human Resources shall develop brochures or other documents which meet the requirements of this paragraph and, upon delivery of such a brochure or document or of another brochure or document approved by the Department of Human Resources to the person and referral of that person to the Department of Human Resources for further information and explanations, counseling shall be deemed to have been provided within the meaning of this paragraph.</p> <p>(7) "Determined to be infected with HIV" means having a confirmed positive HIV test or having been clinically diagnosed as having AIDS.</p> <p>(8) "Health care facility" means any: (A) Institution or medical facility, as defined in Code Section 31-7-1; (B) Facility for the mentally ill, mentally retarded, or alcoholic or drug dependent persons, as defined in Code Sections 37-3-1, 37-4-1, and 37-7-1, respectively; (C) Medical, dental, osteopathic, or podiatric clinic; (D) Hospice, as defined in Code Section 31-7-172; (E) Clinical laboratory, as defined in Code Section 31-22-1; or (F) Administrative, clerical, or support personnel of any legal entity specified in subparagraphs (A) through (E) of this paragraph.</p> <p>(9) "Health care provider" means any of the following persons licensed or regulated by the state: (A) Physician or physician's assistant; (B) Osteopath; (C) Podiatrist; (D) Midwife;</p>

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	<p>(E) Dentist, dental technician, or dental hygienist;</p> <p>(F) Respiratory care professional, certified respiratory therapy technician, or registered respiratory therapist;</p> <p>(G) Registered nurse;</p> <p>(H) Licensed practical nurse;</p> <p>(I) Emergency medical technician, paramedic, or cardiac technician;</p> <p>(J) Clinical laboratory director, supervisor, technician, or technologist;</p> <p>(K) Funeral director or embalmer;</p> <p>(L) Member of a hospice team, as defined in Code Section 31-7-172;</p> <p>(M) Nursing home administrator;</p> <p>(N) Professional counselor, social worker, or marriage and family therapist;</p> <p>(O) Psychologist;</p> <p>(P) Administrative, clerical, or support personnel, whether or not they are licensed or regulated by the state, of any person specified in subparagraphs (A) through (O) of this paragraph;</p> <p>(Q) Trainee, student, or intern, whether or not they are licensed or regulated by the state, of any persons listed in subparagraphs (A) through (O) of this paragraph; or</p> <p>(R) First responder, as defined in Chapter 11 of this title, although such person is not licensed or regulated by the state.</p> <p>(10) "HIV" means any type of Human Immunodeficiency Virus, Human T-Cell Lymphotropic Virus Types III or IV, Lymphadenopathy Associated Virus Types I or II, AIDS Related Virus, or any other identified causative agent of AIDS.</p> <p>(11) "HIV infected person" means a person who has been determined to be infected with HIV, whether or not that person has AIDS, or who has been clinically diagnosed as having AIDS.</p> <p>(12) "HIV test" means any antibody, antigen, viral particle, viral culture, or other test to indicate the presence of HIV in the human body, which test has been approved for such purposes by the regulations of the department.</p> <p>(13) "Institutional care facility" means any:</p> <p>(A) Health care facility;</p> <p>(B) Child welfare agency, as defined in Code Section 49-5-12;</p> <p>(C) Group care facility, as defined in Code Section 49-5-3;</p> <p>(D) Penal institution; or</p> <p>(E) Military unit.</p> <p>(14) "Knowledge of being infected with HIV" means actual knowledge of:</p> <p>(A) A confirmed positive HIV test; or</p> <p>(B) A clinical diagnosis of AIDS.</p> <p>(15) "Law" means federal or state law.</p> <p>(16) "Legal entity" means a partnership, association, joint venture, trust, governmental entity, public or private corporation, health care facility,</p>

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	<p>institutional care facility, or any other similar entity.</p> <p>(17) "Military unit" means the smallest organizational unit of the organized militia of the state, as defined in Code Section 38-2-2, or of any branch of the armed forces of the United States, which unit is commanded by a commissioned officer.</p> <p>(18) "Penal institution" means any jail, correctional institution, or similar facility for the detention of violators of state laws or local ordinances.</p> <p>(19) "Person" means a natural person.</p> <p>(20) "Person at risk of being infected with HIV" means any person who may have already come in contact with or who may in the future reasonably be expected to come in contact with the body fluids of an HIV infected person.</p> <p>(21) "Physician" means any person licensed to practice medicine under Chapter 34 of Title 43.</p> <p>(22) "Public safety agency" means that governmental unit which directly employs a public safety employee.</p> <p>(23) "Public safety employee" means an emergency medical technician, firefighter, law enforcement officer, or prison guard, as such terms are defined in Code Section 45-9-81, relating to indemnification of such personnel for death or disability.</p> <p>(b) Notwithstanding the provisions of Code Section 31-21-10 and Code Section 31-22-11, no person or legal entity, other than an insurer authorized to transact business in this state, shall submit for an HIV test any human body fluid or tissue to any person or legal entity except to:</p> <p>(1) A clinical laboratory licensed under this chapter;</p> <p>(2) A clinical laboratory exempt from licensure under Code Section 31-22-9; or</p> <p>(3) A clinical laboratory licensed as such pursuant to the laws of any other state.</p> <p>(c) No person or legal entity may sell or offer for sale any HIV test that permits any person or legal entity, including the person whose body fluids are to be tested, to perform that test other than a person or legal entity specified in paragraphs (1) through (3) of subsection (b) of this Code section.</p>
§ 31-22-9.2	<p>HIV tests -- Report of positive results; counseling; violations; exception for insurance coverage; exposure of health care provider</p> <p>(a) Any term used in this Code section and defined in Code Section 31-22-9.1 shall have the meaning provided for that term in Code Section 31-22-9.1.</p>

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	<p>(b) Reserved.</p> <p>(c) Unless exempted under this Code section, each health care provider who orders an HIV test for any person shall do so only after counseling the person to be tested. Unless exempted under this subsection, the person to be tested shall have the opportunity to refuse the test. The provisions of this subsection shall not be required if the person is required to submit to an HIV test pursuant to Code Section 15-11-66.1, 17-10-15, 31-17-4.2, 31-17A-3, 42-5-52.1, or 42-9-42.1. The provisions of this subsection shall not be required if the person is a minor or incompetent and the parent or guardian thereof permits the test after compliance with this subsection. The provisions of this subsection shall not be required if the person is unconscious, temporarily incompetent, or comatose and the next of kin permits the test after compliance with this subsection. The provisions of this subsection shall not apply to emergency or life-threatening situations. The provisions of this subsection shall not apply if the physician ordering the test is of the opinion that the person to be tested is in such a medical or emotional state that disclosure of the test would be injurious to the person's health. The provisions of this subsection shall only be required prior to drawing the body fluids required for the HIV test and shall not be required for each test performed upon that fluid sample.</p> <p>(d) The health care provider ordering an HIV test shall provide medically appropriate counseling to the person tested with regard to the test results. Such medically appropriate counseling shall only be required when the last confirmatory test has been completed.</p> <p>(e) The criminal penalty provided in Code Section 31-22-13 shall not apply to a violation of subsection (c), (d), or (g) of this Code section. The statute of limitations for any action alleging a violation of this Code section shall be two years from the date of the alleged violation.</p> <p>(f) The provisions of this Code section shall not apply to situations in which an HIV test is ordered or required in connection with insurance coverage, provided that the person to be tested or the appropriate representative of that person has agreed to have the test administered under such procedures as may be established by the Commissioner of Insurance after consultation with the Department of Human Resources.</p> <p>(g) Notwithstanding the other provisions of this Code section, when exposure of a health care provider to any body fluids of a patient occurs in such a manner as to create any risk that such provider might become an HIV infected person if the patient were an HIV infected person, according to current infectious disease guidelines of the Centers for Disease Control or according to infectious disease standards of the health care facility where the exposure occurred, a health care provider otherwise authorized to order an HIV test shall be authorized to order any HIV test on such patient and obtain the results thereof:</p> <p>(1) If the patient or the patient's representative, if the patient is a minor, otherwise incompetent, or unconscious, does not refuse the test after being</p>

GA Title 31 Code §	Code Language
	<p>notified that the test is to be ordered and after having been provided counseling and an opportunity to refuse the test; or</p> <p>(2) If the patient or representative refuses the test, following compliance with paragraph (1) of this subsection, when at least one other health care provider who is otherwise authorized to order an HIV test concurs in writing to the testing, the patient is informed of the results of the test and is provided counseling with regard to those results, and the occurrence of that test is not made a part of the patient's medical records, where the test results are negative, without the patient's consent.</p>

Title 42: Penal Institutions

GA Title 42 Code §	Code Language
§ 42-5-52.1	<p>Submission to HIV test; separate housing for HIV infected persons</p> <p>(a) Any term used in this Code section and defined in Code Section 31-22-9.1 shall have the meaning provided for that term in Code Section 31-22-9.1.</p> <p>(b) Where any person is committed to the custody of the commissioner to serve time in any penal institution of this state on and after July 1, 1988, the department shall require that person to submit to an HIV test within 30 days after the person is so committed unless that person is in such custody because of having committed an AIDS transmitting crime and has already submitted to an HIV test pursuant to Code Section 17-10-15.</p> <p>(c) No later than December 31, 1991, the department shall require to submit to an HIV test each person who has been committed to the custody of the commissioner to serve time in a penal institution of this state and who remains in such custody, or who would be in such custody but for having been transferred to the custody of the Department of Human Resources under Code Section 42-5-52, if that person has not submitted to an HIV test following that person's most recent commitment to the custody of the commissioner and unless that person is in such custody because of having committed an AIDS transmitting crime and has already submitted to an HIV test pursuant to Code Section 17-10-15.</p> <p>(d) Upon failure of an inmate to cooperate in HIV test procedures under this Code section, the commissioner may apply to the superior court for an order authorizing the use of such measures as are reasonably necessary to require submission to the HIV test. Nothing in this Code section shall be construed to limit the authority of the department to require inmates to submit to an HIV test.</p> <p>(e) Any person determined by the department to be an HIV infected person, whether or not by the test required by this Code section, should be housed separately at existing institutions from any other persons not infected with HIV if:</p> <ol style="list-style-type: none"> (1) That person is reasonably believed to be sexually active while incarcerated; (2) That person is reasonably believed to be sexually predatory either during or prior to incarceration; or (3) The commissioner determines that other conditions or circumstances exist indicating that separate confinement would be in the best interest of the department and the inmate population, but neither the department nor any officials, employees, or agents thereof shall be civilly or criminally liable for failing or refusing to house HIV infected persons separately from any other persons who are not HIV infected persons.

GA Title 42 Code §	Code Language
§ 42-9-42.1	<p data-bbox="418 275 1414 302">Use of HIV test results in granting relief from sentence; conditions</p> <p data-bbox="418 338 1414 428">(a) Any term used in this Code section and defined in Code Section 31-22-9.1 shall have the meaning provided for such term in Code Section 31-22-9.1.</p> <p data-bbox="418 464 1442 911">(b) The board is authorized to obtain from any penal institution, with at least 60 days prior notice to that institution, and any such penal institution is authorized to provide the board with HIV test results regarding any person who applies or is eligible for clemency, a pardon, a parole, or other relief from a sentence or to require such person to submit to an HIV test and to consider the results of any such test in determining whether to grant clemency, a pardon, a parole, or other relief to such person. Test results obtained pursuant to the authority of this Code section may not be the sole basis for determining whether to grant or deny any such relief to such person, however. The board is further authorized to impose conditions upon any person to whom the board grants clemency, a pardon, a parole, or other relief and who is determined by an HIV test to be infected with HIV, which conditions may include without being limited to those designed to prevent the spread of HIV by that person.</p>

Title 44: Property

GA Title 44 Code §	Code Language
§ 44-5-151	<p>HIV test of body part or donor; disposition if infected; notice to donor or physician; exception for certain blood testing; penalty for violations</p> <p>(a) Any term used in this Code section and defined in Code Section 31-22-9.1 shall have the meaning provided for that term in Code Section 31-22-9.1.</p> <p>(b) Each health care facility, health care provider, blood bank, tissue bank, sperm bank, or other similar legal entity which procures, processes, distributes, or uses any human body part determined by the Department of Human Resources to have a reasonable probability of transmitting HIV shall subject or have subjected such part, or the donor of such part, to an HIV test prior to making that body part available for use in the body of another human being. Any such body part thus determined to be infected with HIV and any body part the donor of which has thus been determined to be infected with HIV shall not be used in the body of another human being but shall be safely and promptly disposed of or made available for medical research, as provided in the regulations of the Department of Human Resources.</p> <p>(c) When any body part or the donor thereof has been determined to be infected with HIV pursuant to subsection (b) of this Code section, the person or legal entity which ordered the HIV test of the body part or donor thereof shall:</p> <p>(1) If the donor is alive and the records of that person or legal entity reflect where the donor can be located, provide personal and confidential notification of such determination to the donor; or</p> <p>(2) If the donor is deceased, provide confidential notification of such determination to any known physician of the donor, which physician shall have the sole discretion whether the person who executed the gift of the body part or any person at risk of being infected with HIV by the donor should be notified by that physician of such determination.</p> <p>(d) In a medical emergency constituting a serious threat to the life of a potential recipient of blood, if blood that has been subjected to the HIV test required under subsection (b) of this Code section is not available, the testing otherwise required under subsection (b) of this Code section shall not be required regarding such blood.</p> <p>(e) Any person or legal entity which violates subsection (b) of this Code section shall be guilty of a misdemeanor.</p>

Rules and Regulations of the State of Georgia – Chapter 290: Department of Human Resources

Chap. 290 RR	Code Language
290-5-48-.04	<p>Prevention of Perinatal Infection</p> <p>(1) Pregnant women and individuals who may become pregnant in the following groups shall be offered counseling, HIV testing, and ancillary services:</p> <ul style="list-style-type: none"> (a) Those who have evidence of HIV infection themselves, or whose offspring have evidence of HIV infection; (b) Those who have used any drug intravenously or parenterally for nonmedical purposes since 1978; (c) Those who were born in areas where heterosexual transmission of HIV is considered by the Department to play a major role; (d) Those who are or have engaged in prostitution; (e) Those who are or have been sex partners of men who have evidence of HIV infection, IV drug abusers, bisexual men, men with hemophilia, or men who were born in areas where heterosexual transmission of HIV is considered by the Department to play a major role; (f) Those who have received blood or blood products after 1978 and prior to April, 1985; and (g) Those who have received artificial insemination after 1978 and prior to January, 1986. <p>(2) If data become available to show that HIV infection is increased in other groups or settings, counseling and testing programs should be extended to include them. Routine counseling and testing of women who are not included in the above-mentioned groups is not currently recommended due to low prevalence of infection and concern about interpretation of test results in the low prevalence population. However, if a woman requests it, the service should be provided.</p> <p>(3) Counseling and testing for HIV to prevent perinatal transmission are recommended in the setting of any medical service in which women at increased risk of HIV infection (as described in Paragraph (1) above) are encountered. These include, but are not limited to, clinics for services related to IV drug abuse (i.e., detoxification and methadone maintenance), hemophilia care, sexually transmitted disease, prenatal and obstetric care, family planning, infertility, gynecological, premarital, and preconceptual care. Testing for HIV should be performed with the individual's permission after counseling is provided regarding risk factors for infection, the interpretation of test results, the risks of transmission, and the possible increase of disease exacerbation among women infected with HIV in association with pregnancy. The counseling and testing must be conducted in an environment in which confidentiality can be assured.</p>
290-5-28-.05	<p>Testing of Individuals Convicted of Prostitution</p> <p>(1) Every prostitute convicted within this State after the effective date of this Chapter shall submit to HIV testing as prescribed by the Department.</p>

Chap. 290 RR	Code Language
	<p>Further, every individual convicted of prostitution outside this State after the effective date of this Chapter and found within this State, shall submit to HIV testing if on probation.</p> <p>(2) Every clerk of a court of record in this State with jurisdiction of the offense of prostitution; every administrative head of a probation, parole or similar supervisory agency; and every administrative head of a penal institution or other detention facility shall promptly report or cause to be reported to the local Board of Health when he or she receives custody, supervision or other notice of an individual convicted of prostitution. Such report shall identify the individual by name and whereabouts, and will be used to facilitate HIV testing of the individual.</p> <p>(3) Before sentencing a convicted prostitute, the courts of this State are requested to have a designated representative, appointed by the court and approved by the Department, contact the Division of Public Health of the Department. The purpose of the contact is to ascertain whether or not the prostitute has been previously found to be positive by HIV testing and such information may be taken into consideration by the judge upon sentencing.</p> <p>(4) Where permitted by law, every judge sentencing a convicted prostitute in this State may include as a condition of any probation, suspension of sentence or other leniency, that the convicted individual report to the local Board of Health for HIV testing as directed. Further, where the convicted individual appears able to do so without undue hardship, every such judge is requested to order the individual to reimburse the health care provider for the cost of any testing and/or ancillary services provides.</p>
290-5-48-.06	<p>Notification of Test Results</p> <p>(1) The approved laboratory for HIV testing shall report test results in writing to the Department or its designated representative, or both, as required by the Department. The Department or its designated representative shall notify the individual of test results in a manner prescribed by the Department.</p> <p>(2) Test results and ancillary services shall be provided only upon the individual's presentation of the proper identification as prescribed by the Department.</p>
290-5-48-.09	<p>Confidentiality</p> <p>(1) All information and records held by the Department and its authorized representatives or any other person relating to HIV infection or cases of AIDS shall be strictly confidential. Such information shall not be released or made public by the Department or its authorized representatives, or by any other person, except that release may be made under the following circumstances:</p> <p>(a) When made with the consent of the individual, parent or legal guardian, as appropriate, to which the information applies;</p>

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	<p>(b) When made for statistical purposes, if the medical or epidemiologic information is summarized so that no names or other individually identifying details are revealed;</p> <p>(c) When made to health care personnel, appropriate state or local agencies, or courts of appropriate jurisdiction, to carry out or enforce the provisions of this Chapter and related rules.</p> <p>(2) If disclosure is made pursuant to an order of the court, such information shall be sealed and delivered directly to the requesting court. Nothing herein waives the Department's right to contest the validity of any discovery process or order, or to seek protective or limiting orders.</p> <p>(3) All information given the Department pursuant to this Chapter shall be incorporated in to the Department's public health investigations, studies and reports. The Department specifically invokes its privilege to refuse to disclose the identity of any person furnishing such information, without specific authorization from the individual tested.</p>
290-5-48-.11	<p>Non-anonymous HIV Reporting</p> <p>The Department of Human Resources shall require reporting of non-anonymous confirmed positive HIV tests on and after December 31, 2003.</p>
290-5-50-.10	<p>Suitability of Anatomical Gifts. Amended.</p> <p>(1) A gift authorizes any examination necessary to assure medical suitability of the gift for the intended purposes. The suitability of anatomical gifts shall be determined by attending physicians or surgeons and may be made in conjunction with applicable types of banks or storage facilities. Factors which must be considered in determining suitability shall include age, etiology of death, length of cardiac arrest, and infection or disease. All determinations shall be based upon existing, acceptable medical criteria related to the specific donation and its purpose, as established by the United Network for Organ Sharing, the Southeastern Organ Procurement Foundation, the Organ Procurement and Transplant Network, the American Association of Tissue Banks, and the Eye Bank Association of America, respectively. Hospitals shall be reimbursed by the donee for reasonable charges incurred in doing necessary laboratory work for donor evaluations and suitability determinations when the donee has requested the laboratory work, regardless of whether the donee receives an anatomical gift.</p> <p>(2) Any permissible donee shall subject or have subjected all human body parts, or the potential donors of such parts, to a HIV test prior to making such parts available for use in the body of another human being. No parts found to be infected or no other parts of a donor found to be infected shall be used in the body of another human.</p> <p>(3) Unless used for medical research, all HIV infected tissue or organs retrieved from a donor shall be incinerated.</p> <p>(4) When a human body part or a donor is determined to be HIV infected,</p>

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	<p>the permissible donee that provided or provided for the testing shall:</p> <p>(a) Provide personal and confidential notification to a living donor from whose body the part was removed if the donee's records identify where the donor is located.</p> <p>(b) Provide personal and confidential notification to any known physician licensed in Georgia of a deceased donor; such physician shall then have the sole discretion to determine whether to notify the persons who executed the gift or any other persons who were at risk of being infected with HIV by the decedent.</p> <p>(5) In a medical emergency constituting a serious threat to the life of a potential recipient of blood, if blood that has been subjected to the HIV testing as required by Rule .10(2) is not available, the testing otherwise required by Rule .10(2) shall not be required regarding such blood.</p>