

HEALTH AND SAFETY CODE

SECTION 120275-120305

120275. Any person who, after notice, violates, or who, upon the demand of any health officer, refuses or neglects to conform to, any rule, order, or regulation prescribed by the department respecting a quarantine or disinfection of persons, animals, things, or places, is guilty of a misdemeanor.

120280. Inasmuch as the orders provided for by Section 121365 are for the protection of the public health, any person who, after service upon him or her of an order of a local health officer as provided in Section 121365 violates or fails to comply with the order, is guilty of a misdemeanor. Upon conviction thereof, in addition to any and all other penalties that may be imposed by law upon the conviction, the person may be ordered by the court confined until the order of the local health officer shall have been fully complied with or terminated by the local health officer, but not exceeding one year from the date of passing judgment upon the conviction, further, the court, upon suitable assurances that the order of the local health officer will be complied with, may place any person convicted of a violation of the order of the local health officer upon probation for a period not to exceed two years, upon condition that the order of the local health officer be fully complied with, further, upon any subsequent violation of the order of the local health officer, the probation shall be terminated and confinement as provided for in this section shall be ordered by the court. Confinement may be accomplished by placement in any appropriate facility, penal institution, or dwelling approved for the specific case by the local health officer.

120285. Upon any subsequent conviction under the provisions of Section 120280, the court may order the person confined for a period not exceeding one year for the subsequent conviction, or other penalty as provided by that section.

120290. Except as provided in Section 120291 or in the case of the removal of an afflicted person in a manner the least dangerous to the public health, any person afflicted with any contagious, infectious, or communicable disease who willfully exposes himself or herself to another person, and any person who willfully exposes another person afflicted with the disease to someone else, is guilty of a misdemeanor.

120291. (a) Any person who exposes another to the human

immunodeficiency virus (HIV) by engaging in unprotected sexual activity when the infected person knows at the time of the unprotected sex that he or she is infected with HIV, has not disclosed his or her HIV-positive status, and acts with the specific intent to infect the other person with HIV, is guilty of a felony punishable by imprisonment in the state prison for three, five, or eight years. Evidence that the person had knowledge of his or her HIV-positive status, without additional evidence, shall not be sufficient to prove specific intent.

(b) As used in this section, the following definitions shall apply:

(1) "Sexual activity" means insertive vaginal or anal intercourse on the part of an infected male, receptive consensual vaginal intercourse on the part of an infected woman with a male partner, or receptive consensual anal intercourse on the part of an infected man or woman with a male partner.

(2) "Unprotected sexual activity" means sexual activity without the use of a condom.

(c) (1) When alleging a violation of subdivision (a), the prosecuting attorney or grand jury shall substitute a pseudonym for the true name of the victim involved. The actual name and other identifying characteristics of the victim shall be revealed to the court only in camera, and the court shall seal that information from further revelation, except to defense counsel as part of discovery.

(2) All court decisions, orders, petitions, and other documents, including motions and papers filed by the parties, shall be worded so as to protect the name or other identifying characteristics of the victim from public revelation.

(3) Unless the victim requests otherwise, a court in which a violation of this section is filed shall, at the first opportunity, issue an order that the parties, their counsel and other agents, court staff, and all other persons subject to the jurisdiction of the court shall make no public revelation of the name or any other identifying characteristics of the victim.

(4) As used in this subdivision, "identifying characteristics" includes, but is not limited to, name or any part thereof, address or any part thereof, city or unincorporated area of residence, age, marital status, relationship to defendant, and race or ethnic background.

120292. (a) Notwithstanding Chapter 7 (commencing with Section 120975) and Chapter 8 (commencing with Section 121025) of Part 4, identifying information and other records of the diagnosis, prognosis, testing, or treatment of any person relating to the human immunodeficiency virus (HIV) shall be disclosed in a criminal investigation for a violation of Section 120291 if authorized by an order of a court of competent jurisdiction granted after application showing good cause therefor. Any order of the court shall be issued in accordance with the following conditions:

(1) An order shall not be based on the sexual orientation of the defendant.

(2) In deciding whether to issue an order, the court shall weigh the public interest and the need for disclosure against any potential harm to the defendant, including, but not limited to, damage to the physician-patient relationship and to treatment services. Upon the

issuance of an order of this nature, the court, in determining the extent to which any disclosure of all or any part of any record is necessary, shall impose safeguards determined appropriate by the court against unauthorized disclosure. However, the court shall not order disclosure under this paragraph for any purpose other than a proceeding under this section. Any order for disclosure under this subdivision shall limit disclosure to those who need the information for the proceeding, and shall direct those to whom disclosure is made to make no further disclosure without permission of the court. The court shall grant permission for further disclosure when necessary for a proceeding under this section. Any disclosure in violation of an order issued under this section shall be remedied or punished as provided in Section 120980.

(b) Nothing in this section is intended to compel the testing to determine the HIV status of any victim of an alleged crime or crimes.

(c) Nothing in this section is intended to restrict or eliminate the anonymous AIDS testing programs provided for in Sections 120885 to 120895, inclusive. Identifying characteristics of persons who submit to that testing shall not be ordered disclosed pursuant to this section, nor shall an order be issued authorizing the search of the records of a testing program of that nature.

120295. Any person who violates Section 120130 or any section in Chapter 3 (commencing with Section 120175, but excluding Section 120195), is guilty of a misdemeanor, punishable by a fine of not less than fifty dollars (\$50) nor more than one thousand dollars (\$1,000), or by imprisonment for a term of not more than 90 days, or by both. He or she is guilty of a separate offense for each day that the violation continued.

120300. The district attorney of the county where a violation of Sections 121365 and 120280 may be committed, shall prosecute all those violations and, upon the request of a health officer, shall prosecute, as provided in Section 120280, violations of any order of a health officer made and served as provided in Section 121365 or Section 120105.

120305. Every person who possesses any intoxicating liquor in or on any public hospital or sanatorium providing for the treatment of tuberculosis or within the boundaries of the grounds belonging thereto is guilty of a misdemeanor. This section shall not prohibit (a) the possession of any intoxicating liquor used for medicinal purposes when issued pursuant to a written order of a physician licensed to practice medicine under the laws of the State of California, (b) the possession of any intoxicating liquor by personnel for his or her own use who resides at the hospital or sanatorium or on the grounds thereof, (c) the possession of any intoxicating liquor used by a minister of the gospel or priest or rabbi in a religious sacrament or ceremony or (d) the service of wine to a patient as part of the hospital's regular menu or bill of fare if the patient is located in a portion of the premises wholly

separate and isolated from patients receiving treatment for tuberculosis.
