

# Arkansas

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## Analysis

### **People living with HIV (PLHIV) may be criminally liable for a range of acts.**

Arkansas considers people living with HIV (PLHIV) to be a danger to the public when they engage in sexual conduct without disclosing their status or in parenteral transfer of blood or blood products.<sup>1</sup> The law is universal and does not account for actual transmission risk.<sup>2</sup> Moreover, if a PLHIV engages in either of these acts with knowledge of their HIV status they are criminally liable and may be charged with a Class A felony.<sup>3</sup> Sexual conduct includes oral, anal, and vaginal sex, as well as any genital or anal penetration by any object.<sup>4</sup> Ejaculation is not required for prosecution.<sup>5</sup> The scope of “parenteral transfer of blood or blood products” (exposure through a mucous membrane or break in the skin) is not defined, but may potentially include blood or organ donation, sharing syringes, spitting, or biting. Neither the intent to transmit HIV nor transmission of HIV is required for prosecution.<sup>6</sup> Conviction can result in a sentence of six to 30 years’ imprisonment and a fine of up to \$15,000.<sup>7</sup>

### **PLHIV may also be charged with general criminal laws, such as aggravated assault.**

In May 2010, a 41-year-old man living with HIV was charged with two counts of aggravated assault after allegedly spitting blood at a police officer.<sup>8</sup> Aggravated assault prohibits, under circumstances manifesting extreme indifference to the value of human life, engaging in conduct that creates a substantial danger of death or serious physical injury to another person.<sup>9</sup> It is a Class D felony, punishable by up to six years imprisonment and a fine of up to \$10,000.<sup>10</sup> The man was acquitted by

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<sup>1</sup> ARK. CODE ANN. § 5-14-123(a) (2016).

<sup>2</sup> *Id.*

<sup>3</sup> § 5-14-123(b), (d) (2016). The language of the statute makes it clear that non-disclosure of HIV status is a required element for prosecution of someone for sexual conduct. However, is not clear whether non-disclosure as an element of the offense also applies to parenteral transfer of blood or blood products.

<sup>4</sup> § 5-14-123(c)(1). (2016).

<sup>5</sup> § 5-14-123(c)(2) (2016).

<sup>6</sup> § 5-14-123(c)(2) (2016).

<sup>7</sup> ARK. CODE ANN. §§ 5-4-401(a)(2), 5-4-201(a)(1) (2016).

<sup>8</sup> Gavin Lesnick, *HIV positive man spits blood at police officer, report says*, ARKANSASONLINE.COM, May 12, 2010, available at <http://www.arkansasonline.com/news/2010/may/12/hiv-positive-man-spits-blood-officer-report-says/>. See also Arkansas Judiciary System, Circuit Court of Pulaski County, Fourth Division, available at [https://caseinfo.aoc.arkansas.gov/cconnect/PROD/public/ck\\_public\\_qry\\_doct.cp\\_dktrpt\\_frames?backto=P&case\\_id=60CR-10-2714&begin\\_date=&end\\_date=](https://caseinfo.aoc.arkansas.gov/cconnect/PROD/public/ck_public_qry_doct.cp_dktrpt_frames?backto=P&case_id=60CR-10-2714&begin_date=&end_date=).

<sup>9</sup> ARK. CODE ANN. § 5-13-204(a)(1) (2016).

<sup>10</sup> §§ 5-13-204(b), 5-4-401(a)(5), 5-4-201(a)(2) (2016).

reason of mental disease or defect and ordered to civil commitment.<sup>11</sup> He was subsequently conditionally released.<sup>12</sup>

### **HIV status must be disclosed before receiving medical treatment.**

All PLHIV in Arkansas who know their HIV status must inform doctors or dentists of their HIV status before receiving treatment.<sup>13</sup> Failure to meet this requirement is a Class A misdemeanor punishable by up to one year in prison, a \$2,500 fine, or both.<sup>14</sup>

### **PLHIV convicted of the criminal exposure statute may be required to register as sex offenders.**

The criminal exposure statute is considered a sex offense,<sup>15</sup> and a PLHIV convicted under it may be required by a sentencing court to register as a sex offender.<sup>16</sup> Persons required to register as sex offenders who move to or return to Arkansas from another jurisdiction must register with local law enforcement within seven calendar days.<sup>17</sup>

Registration requires submission of extensive information and has complicated verification requirements.<sup>18</sup> Importantly, under this statutory scheme, transgender persons registered as sex offenders who have not legally changed their names may not do so until their registration requirement has terminated.<sup>19</sup>

Violating any of the terms of registration is a Class C felony and may be punishable by three to ten years' imprisonment and a fine of up to \$10,000.<sup>20</sup> Under certain circumstances, PLHIV convicted of HIV exposure may apply for the termination of the sex offender registration requirement.<sup>21</sup>

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<sup>11</sup> *State v. Jackson*, 60CR-10-2714 (Cir. Ct. Pulaski County-4th 2011), see "Judgment & Commitment Order," entry dated 04/18/2011 on docket report, available at: [https://caseinfo.aoc.arkansas.gov/cconnect/PROD/public/ck\\_public\\_qry\\_doct.cp\\_dktrpt\\_frames?backto=D&case\\_id=60CR-10-2714&begin\\_date=&end\\_date=](https://caseinfo.aoc.arkansas.gov/cconnect/PROD/public/ck_public_qry_doct.cp_dktrpt_frames?backto=D&case_id=60CR-10-2714&begin_date=&end_date=).

<sup>12</sup> *In re Jackson*, No. PR 11-760 (Circ. Ct. Pulaski County-12th 2011), see "Order of Conditional Release RR.12.2012.97" entry dated 03/02/2012 on docket report, available at: [https://caseinfo.aoc.arkansas.gov/cconnect/PROD/public/ck\\_public\\_qry\\_doct.cp\\_dktrpt\\_frames?backto=P&case\\_id=60PR-11-760&begin\\_date=&end\\_date=](https://caseinfo.aoc.arkansas.gov/cconnect/PROD/public/ck_public_qry_doct.cp_dktrpt_frames?backto=P&case_id=60PR-11-760&begin_date=&end_date=).

<sup>13</sup> ARK. CODE ANN. § 20-15-903(a) (2016).

<sup>14</sup> §§ 20-15-903(b), 5-4-401(b)(1), 5-4-201(b)(1) (2016).

<sup>15</sup> § 12-12-903(13)(A)(i)(p) (2016). See also § 12-12-903(13)(i)-(vi) (2016) (defining as sex offenses, and thus requiring sex offender registration, a number of offenses potentially including PLHIV, including (1) attempt, solicitation, or conspiracy to commit any of the enumerated offenses, including HIV exposure; (2) conviction of another state's law that is either similar to an Arkansas law that requires registration, or requires registration in that state; (3) conviction of a military offense that is either similar to an Arkansas law that requires registration, or requires registration under federal law; and (4) conviction of a law in another foreign country requiring registration.)

<sup>16</sup> §§ 12-12-905(a)(1)-(4), 12-12-903(12)(A), 12-12-906(a)(1)(A)(ii) (2016).

<sup>17</sup> § 12-12-906(a)(2)(A) (2016).

<sup>18</sup> Readers are advised to carefully review all sections of ARK. CODE ANN. §12-12-908 for a complete list of requirements. See also §§ 12-12-909(a)(1), 12-12-909(b)(1)(A), 12-12-909(b)(1)(B), 12-12-909(b)(1)(D)(2016).

<sup>19</sup> § 12-12-906(f) (2016) (forbidding name changes except to reflect a change in marital status or to affect the exercise of religion).

<sup>20</sup> §§ 12-12-904(a)(1)(A), 5-4-401(a)(4), 5-4-201(a)(2) (2016).

<sup>21</sup> §§ 12-12-919(b)(1)(A)(i) (15-year requirement for application), 12-12-919(b)(2) (standard for approval), 12-12-919(c) (waiting period if application denied), 12-12-919(b)(3) (2016) (standard for second or subsequent offenses).

## **A person’s medical files and reports may be used in the prosecution for criminal exposure to HIV.**

The medical records of PLHIV are generally subject to strict confidentiality protections in Arkansas.<sup>22</sup> However, any prosecutor may obtain those records by subpoena to prosecute a person under the criminal HIV exposure statute.<sup>23</sup>

In a second trial to prosecute the defendant from *Weaver* on two additional counts of exposing another to HIV, the state obtained the defendant’s medical records from the county health department by issuing an investigative subpoena, which did not require court approval.<sup>24</sup> The defendant appealed his conviction and sentence of 30 years for each count, arguing the medical records were obtained in violation of the state’s rule of criminal procedure, rules of evidence, as well as the state and federal constitutions.<sup>25</sup> The Arkansas Court of Appeals upheld use of the investigative subpoena as proper under the HIV confidentiality statute.<sup>26</sup>

Arkansas also allows involuntary HIV testing for criminal defendants in Arkansas charged with sexual assault, incest, or prostitution.<sup>27</sup> The victim of the crime can request that the person charged with a sexual offense be tested for HIV, regardless of whether the person charged is in custody.<sup>28</sup> After a victim’s request is made a court can require the person charged to be tested within 48 hours. A court can also require testing if it has found, following indictment, reasonable cause to believe that the person committed the offense and used or threatened force.<sup>29</sup> The person charged with the sexual offense can be required to submit to further HIV testing as “medically appropriate.”<sup>30</sup> If the person charged is convicted, the court can require that the person be re-tested for HIV at the victim’s request.<sup>31</sup> All test results are provided to the victim.<sup>32</sup>

## **People who test positive for a Sexually Transmitted Infection (STI) or other communicable disease may undergo mandatory treatment or else be subject to quarantine or isolation.**

The Department of Health (the department) has broad discretion to issue regulations to limit the spread of communicable diseases.<sup>33</sup> Any violation of orders, rules, or regulations of the Department of Health

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<sup>22</sup> § 20-15-904(c)(1) (2016).

<sup>23</sup> § 20-15-904(c)(2) (2016).

<sup>24</sup> *Weaver v. State*, 990 S.W.2d 572, 573-74 (Ark. Ct. App. 1999).

<sup>25</sup> *Id.* at 573.

<sup>26</sup> *Id.* at 574-75, citing ARK. CODE ANN. § 20-15-904 (2014).

<sup>27</sup> ARK. CODE ANN. § 16-82-101(b)(1) (A) (2021).

<sup>28</sup> Ark. Code Ann. § 16-82-101(B)(i)(a) (2021)

<sup>29</sup> Ark. Code Ann. § 16-82-101(b) (2021)

<sup>30</sup> Ark. Code Ann. § 16-82-101(ii) (2021)

<sup>31</sup> Ark. Code Ann. § 16-82-101(d) (1) (2021)

<sup>32</sup> Ark. Code Ann. § 16-82-101(b)(1) (A) (2021)

<sup>33</sup> ARK. CODE ANN. § 20-16-505 (2016)

amounts to a misdemeanor punishable by a fine of up to \$100 and imprisonment for up to one month;<sup>34</sup> each day of violation constitutes a separate offense.<sup>35</sup>

Any person may be apprehended, detained, and subject to mandatory blood tests whenever the Director of the Arkansas Department of Health (the director) “has reasonable grounds to believe” they are suffering from syphilis, gonorrhea, chancroid, lymphogranuloma venereum, or granuloma inguinale in a communicable state.<sup>36</sup> Moreover, the director may mandate treatment for, or else quarantine or isolate, any persons who test positive and for whom the director determines such action may be necessary to protect the public health.<sup>37</sup> The director may also, “when in the exercise of his discretion he believes that the public health requires it, commit any commercial prostitute . . . who refuses or fails to take treatment adequate for the protection of the public health, to a hospital,” or other facility for such mandatory treatment.<sup>38</sup> The regulation granting such authority, however, does not specify the kind of treatment that may be imposed, since there is no explicit requirement that the detained sex workers test positive for any STD; rather, sex workers seem to be categorically considered a public health risk by the state of Arkansas.

In a 1942 case, a defendant had been arrested for “immorality and prostitution,” detained so that she could be tested for communicable venereal diseases, and subsequently quarantined when she tested positive for gonorrhea and syphilis.<sup>39</sup> Although her confinement had been held unconstitutional, the Supreme Court of Arkansas subsequently reversed that holding in *Little Rock*.<sup>40</sup> The Court adopted the Kansas Supreme Court’s reasoning in a similar case:

“[The regulation] affects the public health so intimately and so insidiously that consideration of delicacy and privacy may not be permitted to thwart measures necessary to avert the public peril. Only those invasions of personal privacy are unlawful which are unreasonable, and reasonableness is always relative to the gravity of the occasion. Opportunity for abuse of power is no greater than in other fields of governmental activity, and misconduct in the execution of official authority is not to be presumed.”<sup>41</sup>

Thus the Court recognized wide discretion in the application of detention, testing, and quarantine of persons suspected of having STIs as constitutional.

**Important note:** *While we have made an effort to ensure that this information is current, the law is always changing and we cannot guarantee the accuracy of the information provided. This information may or may not be applicable to your specific situation and, as such, it should not be used as a substitute for legal advice.*

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<sup>34</sup> ARK. CODE ANN. § 20-7-101(a)(1) (2016).

<sup>35</sup> § 20-7-101(a)(2) (2016).

<sup>36</sup> 007-15-004 ARK. CODE R. § XXI(D) (2016); 007-15-008 ARK. CODE R. § XXI(D) (2016).

<sup>37</sup> See 007-15-004 ARK. CODE R. §§ IX, X(A), (C), XXI(E) (2016); 007-15-008 ARK. CODE R. §§ IX, X(A), (C), XXI(E) (2016); 007-26-001 ARK. CODE R. §§ VII, VIII, IX, XXII(E)-(F) (2016).

<sup>38</sup> 007-15-004 ARK. CODE R. § XXI(E) (2016); 007-15-008 ARK. CODE R. § XXI(E) (2016).

<sup>39</sup> *Little Rock v. Smith*, 163 S.W.2d 705, 705-06 (Ark. 1942)

<sup>40</sup> *Id.* at 708.

<sup>41</sup> *Id.* (citing *Ex Parte McGee* 185 P. 14, 16 (Kan. 1919) (denying detainees’ petition for a writ of habeas corpus because detainees were infected with a venereal disease, and “although they allowed an invasion of personal privacy, the statute, rules, and ordinance were aimed at protecting the public from loathsome communicable diseases and the measures employed were reasonable in light of the seriousness of the public health issues involved).

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## Arkansas Code

*Note: Provisions imposing punitive restrictions or listing criminal sentences are denoted with \*\* and are generally listed first. Thereafter, provisions within a particular title are listed numerically.*

### TITLE 5, CRIMINAL OFFENSES

#### **ARK. CODE ANN. § 5-14-123 (2016) \*\***

*Knowingly transmitting AIDS, HIV*

(a) A person with acquired immunodeficiency syndrome or who tests positive for the presence of human immunodeficiency virus antigen or antibodies is infectious to another person through the exchange of a body fluid during sexual intercourse and through the parenteral transfer of blood or a blood product and under these circumstances is a danger to the public.

(b) A person commits the offense of exposing another person to human immunodeficiency virus if the person knows he or she has tested positive for human immunodeficiency virus and exposes another person to human immunodeficiency virus infection through the parenteral transfer of blood or a blood product or engages in sexual penetration with another person without first having informed the other person of the presence of human immunodeficiency virus.

(c)

(1) As used in this section, “sexual penetration” means sexual intercourse, cunnilingus, fellatio, anal intercourse, or any other intrusion, however slight, of any part of a person’s body or of any object into a genital or anal opening of another person’s body.

(2) However, emission of semen is not required.

(d) Exposing another person to human immunodeficiency virus is a Class A felony.

#### **ARK. CODE ANN. § 5-4-401 (2016) \*\***

*Sentence*

(a) A defendant convicted of a felony shall receive a determinate sentence according to the following limitations:

(2) For a Class A felony, the sentence shall be not less than six (6) years nor more than thirty (30) years;

(4) For a Class C felony, the sentence shall be not less than three (3) years nor more than ten (10) years;

(b) A defendant convicted of a misdemeanor may be sentenced according to the following limitations:

(1) For a Class A misdemeanor, the sentence shall not exceed one (1) year;

**ARK. CODE ANN. § 5-4-201 (2016) \*\***

*Fines – Limitations on amount.*

(a) A defendant convicted of a felony may be sentenced to pay a fine:

(1) Not exceeding fifteen thousand dollars (\$15,000) if the conviction is of a Class A felony or Class B felony;

(2) Not exceeding ten thousand dollars (\$10,000) if the conviction is of a Class C felony or a Class D felony; or

(b) A defendant convicted of a misdemeanor may be sentenced to pay a fine:

(1) Not exceeding two thousand five hundred dollars (\$2,500) if the conviction is of a Class A misdemeanor;

**TITLE 12. LAW ENFORCEMENT, EMERGENCY MANAGEMENT, AND MILITARY AFFAIRS**

**ARK. CODE ANN. § 12-12-903 (2016)**

*Definitions*

As used in this subchapter:

(12) (A) “Sex Offender” means a person who is adjudicated guilty of a sex offense or acquitted on the grounds of mental disease or defect of a sex offense.

(13)(A) “Sex Offense” includes, but is not limited to:

(i) The following offenses:

(p) Exposing another person to human immunodeficiency virus, § 5-4-123, when ordered by the sentencing court to register as a sex offender;

(ii) An attempt, solicitation, or conspiracy to commit any of the offenses enumerated in this subdivision (13)(A);

(iii) An adjudication of guilt for an offense of the law of another state:

(a) Which is similar to any of the offenses enumerated in subdivision (13)(A)(i) of this section; or

(b) When that adjudication of guilt requires registration under another state’s sex offender registration laws;

(iv) A violation of any former law of this state that is substantially equivalent to any of the offenses enumerated in this subdivision (13)(A);

(v) An adjudication of guilt for an offense in any federal court, the District of Columbia, a United States territory, a federally recognized Indian tribe, or for a military offense:

(1) Which is similar to any of the offenses enumerated in subdivision (13)(A)(i) of this section;

(2) When the adjudication of guilt requires registration under sex offender registration laws of another state or jurisdiction; or

(vi) An adjudication of guilt for an offense requiring registration under the laws of Canada, the United Kingdom, Australia, New Zealand, or any other foreign country where an independent judiciary enforces a right to a fair trial during the year in which the conviction occurred.

(B) (i) The sentencing court has the authority to order the registration of any offender shown in court to have attempted to commit or to have committed a sex offense even though the offense is not enumerated in subdivision (13)(A)(i) of this section.

**ARK. CODE ANN. § 12-12-905 (2016)**

*Applicability*

(a) The registration or registration verification requirements of this subchapter apply to a person who:

(1) Is adjudicated guilty on or after August 1, 1997, of a sex offense, aggravated sex offense, or sexually violent offense;

(2) Is serving a sentence of incarceration, probation, parole, or other form of community supervision as a result of an adjudication of guilt on or after August 1, 1997, for a sex offense, aggravated sex offense, or sexually violent offense;

(3) Is acquitted on or after August 1, 1997, on the grounds of mental disease or defect for a sex offense, aggravated sex offense, or sexually violent offense;

(4) Is serving a commitment as a result of an acquittal on or after August 1, 1997, on the grounds of mental disease or defect for a sex offense, aggravated sex offense, or sexually violent offense; or

**ARK. CODE ANN. § 12-12-906 (2016) \*\***

*Duty to register or verify registration generally – Review of requirements with offenders.*

(f)(1) An offender required to register under this subchapter shall not change his or her name unless the change is:

(A) Incident to a change in the marital status of the sex offender; or

(B) Necessary to effect the exercise of the religion of the sex offender.

(2) The change in the sex offender's name shall be reported to the local law enforcement agency having jurisdiction within ten (10) calendar days after the change in name.

(3) A violation of this subsection is a Class C felony.

## TITLE 20, PUBLIC HEALTH AND WELFARE

### **ARK. CODE ANN. § 20-15-903 (2016) \*\***

*Advising physician or dentist required – Penalty.*

(a) Prior to receiving any health care services of a physician or dentist, any person who is found to have human immunodeficiency virus (HIV) infection shall advise the physician or dentist that the person has human immunodeficiency virus (HIV) infection.

(b) Any person failing or refusing to comply with the provisions of subsection (a) of this section shall be guilty of a Class A misdemeanor and punished accordingly.

### **ARK. CODE ANN. § 20-15-904 (2016)**

*Reporting – Confidentiality – Subpoenas.*

(a) A person with acquired immunodeficiency syndrome (AIDS) or who tests positive for the presence of human immunodeficiency virus (HIV) antigen or antibodies is infectious to others through the exchange of body fluids during sexual intercourse and through the parenteral transfer of blood or blood products and under these circumstances is a danger to the public.

(c)(1) All information and reports in connection with persons suffering from or suspected to be suffering from the diseases specified in this section shall be regarded as confidential by every person, body, or committee whose duty it is or may be to obtain, make, transmit, and receive information and reports.

(2) However, any prosecuting attorney of this state may subpoena information as may be necessary to enforce the provisions of this section and §§ 5-14-123 and 16-82-101, provided that any information acquired pursuant to the subpoena shall not be disclosed except to the courts to enforce this section.

### **ARK. CODE ANN. § 20-16-505 (2016)**

*Notification – Authority to regulate.*

The Infectious Disease Branch of the Department of Health may enact each rule and regulation as is necessary to assure compliance with §§ 20-16-501 – 20-16-506.

### **ARK. CODE ANN. § 20-7-101 (2016) \*\***

*Violations – Penalties*

(a)

(1) Every firm, person, or corporation violating any of the provisions of this act or any of the orders, rules, or regulations made and promulgated in pursuance hereof shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500) or by imprisonment not exceeding one (1) month, or both.

(2) Each day of violation shall constitute a separate offense.

## TITLE 16, PRACTICE, PROCEDURE AND COURTS

### **ARK. CODE ANN. § 16-82-101 (2021)**

*Testing for human immunodeficiency virus – Sexual offenses.*

(b) (1)(A) A person arrested and charged with violating § 5-14-103, § 5-14-110, § § 5-14-124 -- 5-14-127, § 5-26-202, or § 5-70-102 may be required by the court having jurisdiction of the criminal prosecution, upon a finding of reasonable cause to believe that the person committed the offense and subject to constitutional limitations, to be tested for the presence of human immunodeficiency virus (HIV) or an antibody to human immunodeficiency virus (HIV) unless the court determines that testing the defendant would be inappropriate and documents the reasons for that determination in the court record.

(B)(i)(a) Subject to constitutional limitations, the victim of an offense listed under subdivision (b)(1)(A) of this section may request that the person arrested and charged with the offense be tested for the presence of human immunodeficiency virus (HIV) or an antibody to human immunodeficiency virus (HIV), whether or not he or she is in custody, and the results of the tests provided to the victim.

(b) Upon the victim's request under subdivision (b)(1)(B)(i)(a) of this section, the court shall require that the person be tested within forty-eight (48) hours of the information's or indictment's being presented to the person if the court finds that there is a reasonable cause to believe that the person committed the offense and the charge against the person has an element of forcible compulsion or the threat of forcible compulsion.

(ii) Subsequent tests for the presence of human immunodeficiency virus (HIV) or an antibody to human immunodeficiency virus (HIV) shall be required as medically appropriate with results of the subsequent tests also provided to the victim as soon as practicable.

(d)(1) Upon request of the victim, and conviction of the defendant, a court of competent jurisdiction shall order the convicted person to submit to testing to detect in the defendant the presence of the etiologic agent for acquired immunodeficiency syndrome (AIDS).

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## Code of Arkansas Rules and Regulations

### 007 DEPARTMENT OF HEALTH

*15 Health Maintenance/Epidemiology*

#### **007-15-004 ARK. CODE R. §§ VIII; IX; X; XXI (2016)**

*Communicable Disease Control*

#### **Section VIII. Cease and Desist Orders.**

If the Director has reasonable cause to suspect that any person who is HIV positive is intentionally engaging in conduct that is likely to cause the transmission of the virus, the Director may issue an order to said person to cease and desist such conduct. Failure to comply immediately shall constitute a violation of these rules and regulations. Such violation shall be promptly reported to the prosecuting attorney in the county where the person resides for appropriate action.

### **Section IX. Isolation.**

It shall be the duty of the attending physician, immediately upon discovering a disease requiring isolation, to cause the patient to be isolated pending official action by the Director. Such physician also shall advise other members of the household regarding precautions to be taken to prevent further spread of the disease, and shall inform them-as to appropriate, specific, preventive measures. He shall, in addition, furnish the patient's attendant with such detailed instructions regarding the disinfection and disposal of infective secretions and excretions as may be prescribed by the Director of the Arkansas Department of Health.

### **Section X. State and Local Quarantine.**

(A) The Director shall impose such quarantine restrictions and regulations upon commerce and travel by railway, common carriers, or any other means, and upon all individuals as in his judgment may be necessary to prevent the introduction of communicable disease into the State, or from one place to another within the State.

(C) No person shall interfere with any health authority having jurisdiction, or carry or remove from one building to another, or from one locality to another within or without the State, any patient affected with a communicable disease dangerous to the public health except as provided under the rules governing the transportation of same.

### **Section XXI. Venereal Disease (Syphilis, Gonorrhea, Chancroid, Lymphogranuloma Venereum, Granuloma Inguinale) and Ophthalmia Neonatorum (Gonorrheal Ophthalmia).**

(D) Whenever the Director has reasonable grounds to believe that any person is suffering from Syphilis, Gonorrhea, Chancroid, Lymphogranuloma Venereum or Granuloma Inguinale in a communicable state, he is authorized to cause such person to be apprehended and detained for the necessary tests and examination, including an approved blood serologic test and other approved laboratory tests, to ascertain the existence of said disease or diseases: provided, that any evidence so acquired shall not be used against such person in any criminal prosecution.

(E) The Director may, when in the exercise of his discretion he believes that the public health requires it, commit any commercial prostitute, or other persons apprehended and examined and found afflicted with said diseases, or either of them who refuses or fails to take treatment adequate for the protection of the public health, to a hospital or other place in the State of Arkansas for such treatment even over the objection of the person so diseased and treated provided the commitment can be done without endangering the life of the patient.

### **007-15-008 ARK. CODE R. § VII; IX; X; XXI (2016)**

*Reportable Disease (Health Maintenance/Epidemiology)*

### **Section VIII. Cease and Desist Orders.**

If the Director has reasonable cause to suspect that any person who is HIV positive is intentionally engaging in conduct that is likely to cause the transmission of the virus, the Director may issue an order to said person to cease and desist such conduct. Failure to comply immediately shall constitute a violation of these rules and regulations. Such violation shall be promptly reported to the prosecuting attorney in the county where the person resides for appropriate action.

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(C) No person shall interfere with any health authority having jurisdiction, or carry or remove from one building to another, or from one locality to another within or without the State, any patient affected with a communicable disease dangerous to the public health except as provided under the rules governing the transportation of same.

### **Section XXI. Sexually Transmitted Disease (Syphilis, Gonorrhea, Chancroid, Lymphogranuloma Venereum, Granuloma Inguinale) and Ophthalmia Neonatorum (Gonorrheal Ophthalmia).**

(D) Whenever the Director has reasonable grounds to believe that any person is suffering from Syphilis, Gonorrhea, Chancroid, Lymphogranuloma Venereum or Granuloma Inguinale in a communicable state, he is authorized to cause such person to be apprehended and detained for the necessary tests and examination, including an approved blood serologic test and other approved laboratory tests, to ascertain the existence of said disease or diseases: provided, that any evidence so acquired shall not be used against such person in any criminal prosecution.

(E) The Director may, when in the exercise of his discretion he believes that the public health requires it, commit any commercial prostitute, or other persons apprehended and examined and found afflicted with said diseases, or either of them who refuses or fails to take treatment adequate for the protection of the public health, to a hospital or other place in the State of Arkansas for such treatment even over the objection of the person so diseased and treated provided the commitment can be done without endangering the life of the patient.

## **007 DEPARTMENT OF HEALTH**

*26 AIDS/STD (Bureau of Public Health Programs)*

### **007-26-001 ARK. CODE R. §§ VII; VIII; IX; XXII (2016)**

*Communicable Disease Control*

#### **Section VII. Isolation**

It shall be the duty of the attending physician, immediately upon discovering a disease requiring isolation, to cause the patient to be isolated pending official action by the local health authority. Such physician also shall advise other members of the household regarding precautions to be taken to prevent further spread of the disease, and shall inform them as to appropriate, specific, preventive measures. He shall, in addition, furnish the patient's attendant with such detailed instructions regarding

the disinfection and disposal of infective secretions and excretions as may be prescribed by the Director of the Arkansas Department of Health.

### **Section VIII. Quarantine Defined**

(A) Complete quarantine: The limitation of freedom of movement of such well persons or domestic animals as have been exposed to a communicable disease, for a period of time not longer than the longest usual incubation period of the disease, in such manner as to prevent effective contact with those not so exposed.

(B) Modified quarantine: A selective, partial limitation of freedom of movement of persons or domestic animals, commonly on the basis of known or presumed differences in susceptibility, but sometimes because of danger of disease transmission. It may be designed to meet particular situations. Examples are exclusion of children from school; exemption of immune persons from provisions required of susceptible persons (e.g., contacts acting as food handlers); restriction of military populations to the post or quarters.

(C) Personal surveillance: The practice of close medical or other supervision of contacts in order to promote prompt recognition of infection or illness, but without restricting their movements.

(D) Segregation: The separation for special consideration, control or observation of some part of a group of persons or domestic animals from the others to facilitate control.

### **Section IX. State and Local Quarantine**

The Director of the Arkansas Department of Health shall impose such quarantine restrictions and Regulations upon commerce and travel by railway, common carriers, or any other means, and upon all individuals as in his judgment may be necessary to prevent the introduction of communicable disease into the State, or from one place to another within the State.

No quarantine regulations of commerce or travel shall be instituted or operated by any place, city, town or county against another place or county in this or in any other State except by authority of the Director of the Arkansas Department of Health.

No person shall interfere with any health authority having jurisdiction, or carry or remove from one building to another, or from one locality to another within or without the State, any patient affected with a communicable disease dangerous to the public health except as provided under the rules governing the transportation of same.

### **Section XXII. Venereal Disease (Syphilis, Gonorrhea, Chancroid, Lymphogranuloma Venereum, Granuloma Inguinale) and Ophthalmia Neonatorum (Gonorrheal Ophthalmia)**

(E) Detention of Suspects. Whenever any health authority has reasonable grounds to believe that any person is suffering from Syphilis, Gonorrhea, Chancroid, Lymphogranuloma Venereum or Granuloma Inguinale in a communicable state, he is authorized to cause such person to be apprehended and detained for the necessary tests and examination, including an approved blood serologic test and other approved laboratory tests, to ascertain the existence of said disease or diseases: Provided, That any evidence so acquired shall not be used against such person in any criminal prosecution.

(F) Isolation of Infectious Cases Until Rendered Non-Infectious. Any health authority may, when in the exercise of his discretion he believes that the public health requires it, commit any commercial prostitute, or other persons apprehended and examined and found afflicted with said diseases, or either of them who refuses or fails to take treatment adequate for the protection of the public health, to a

hospital or other place in the State of Arkansas for such treatment even over the objection of the person so diseased and treated provided the commitment can be done without endangering the life of the patient.