

# District of Columbia

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## Analysis

### **People living with HIV (PLHIV) or other sexually transmitted infections (STIs) may be subject to quarantine, isolation, and mandatory treatment.**

The Mayor may issue rules to prevent and control the spread of communicable diseases, including HIV, viral hepatitis, and “venereal diseases,” to include chancroid, gonorrhea, granuloma inguinale, lymphogranuloma venereum, and syphilis.<sup>1</sup> Pursuant to such rules, the Mayor may direct the removal of persons for whom there is probable cause to believe they are affected with a communicable disease for the purpose of isolation, quarantine, or treatment.<sup>2</sup> To that end, the Mayor may enlist the aid of the Chief of Police, upon issuance of an arrest warrant from the Superior Court of the District of Columbia.<sup>3</sup>

Orders for detention expire within 24 hours of issuance unless a judge of the Superior Court of the District of Columbia, upon finding probable cause that the detained person’s presence in the general populations is likely to cause death or seriously impair the health of others, extends its force for a longer period.<sup>4</sup> However, persons diagnosed as affected by a communicable disease “may be detained as long as necessary to protect the public health.”<sup>5</sup> Upon either a continuation from a Superior Court judge, or a diagnosis of the person as affected by a communicable diseases, the person may petition for a discharge hearing to determine whether their release into the general population is likely to cause death or seriously impair the health of others.<sup>6</sup> In the case of a diagnosis, the person has the right to legal counsel.<sup>7</sup>

It is unlawful for detained persons to leave their place of detention without discharge.<sup>8</sup> It is similarly unlawful for any person to knowingly obstruct, resist, oppose, or interfere with any person performing

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<sup>1</sup> D.C. CODE §§ 7-131(a), 7-132(2) (2016); D.C. MUN. REGS. tit. 22 § 201.5(a), (h), (t) (2016). See also D.C. CODE § 7-144 (2016) (“Each and every provision of this subchapter shall be constructed liberally in aid of the powers vested in the public authorities looking to the protection of the public health, comfort, and welfare and not by way of limitation.”).

<sup>2</sup> D.C. CODE §§ 7-131(a), 7-133(a), 7-135(a) (2016); D.C. MUN. REGS. tit. 22 §§ 210.1, 210.4, 210.5, 210.8 (2016). See also D.C. MUN. REGS. tit. 22 §§ 210.6, 210.7 (2016) (“The Director may authorize or order a placard to be posted on the premises occupied by any person affected with a communicable disease. No placard authorized or ordered by the Director to be posted shall be mutilated, defaced, obliterated, concealed, or removed, except by authorization of the Director.”).

<sup>3</sup> D.C. CODE § 7-137 (2016); D.C. MUN. REGS. tit. 22 § 210.2 (2016).

<sup>4</sup> D.C. CODE § 7-134(a) (2016).

<sup>5</sup> D.C. CODE § 7-135(b) (2016). It is unclear how long such periods may last for communicable diseases, such as HIV, for which there is no cure. Interpretations based on transmission risks call into question the existence of such provisions in the first place, since transmission of sexually transmitted infections (STIs) does not occur through casual contact. Moreover, risk reduction measures such as condom use and, in the case of HIV, adherence to antiretroviral therapy, further reduces risk of transmission

<sup>6</sup> D.C. CODE §§ 7-134(b), 7-135(b) (2016).

<sup>7</sup> D.C. CODE § 7-135(b) (2016).

<sup>8</sup> D.C. CODE § 7-136 (2016).

any duty under laws or regulations to control the spread of communicable disease.<sup>9</sup> In case of violation, persons may be found guilty of a misdemeanor and receive up to 90 days' imprisonment and a fine of up to \$5,000.<sup>10</sup> Any person who willfully violates any rule or regulations issued pursuant to the control of communicable diseases may be found guilty of a misdemeanor and punished with up to 30 days' imprisonment and a fine of up to \$1,000.<sup>11</sup>

### **Medical records may be used as evidence in a criminal prosecution.**

Records related to preventing the spread of communicable diseases are to be kept confidential, unless a court finds, upon clear and convincing evidence and after granting the opportunity to contest the disclosure, that the disclosure would afford evidence probative of guilt or innocence in a criminal prosecution.<sup>12</sup>

***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>9</sup> D.C. CODE § 7-139 (2016).

<sup>10</sup> D.C. CODE § 7-140 (2016).

<sup>11</sup> D.C. CODE § 7-140 (2016); D.C. MUN. REGS. tit. 22 § 210.9 (2016).

<sup>12</sup> D.C. CODE § 7-131(b)(1)(B) (2016) (Disclosures may also be permitted if the court finds such disclosures are essential to safeguard the physical health of others.).

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## District of Columbia 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 7. HUMAN HEALTH CARE AND SAFETY

#### **D.C. CODE § 7-131 (2016)**

*Regulations to prevent spread of communicable diseases.*

(a) The Mayor may, upon the advice of the Director of the Department of Health and pursuant to subchapter I of Chapter 5 of Title 2, issue rules to prevent and control the spread of communicable diseases, environmentally or occupationally related diseases, and other diseases or medical conditions that the Director of the Department of Health has advised should be monitored for epidemiological or other public health reasons. These rules may include, but shall not necessarily be limited to:

- (1) A list of reportable diseases and conditions;
- (2) Reporting procedures; and
- (3) Requirements and procedures for restriction of movement, isolation, and quarantine not inconsistent with this subchapter.

(b) (1) Except as provided in paragraph (2) of this subsection, the Director of the Department of Health shall use the records incident to the case of a disease or medical condition reported under this subchapter for statistical and public health purposes only, and identifying information contained in these records shall be disclosed only when essential to safeguard the physical health of others. No person shall otherwise disclose or redisclose identifying information derived from these records unless:

- (A) The person reported gives his or her prior written permission; or
- (B) A court finds, upon clear and convincing evidence and after granting the person reported an opportunity to contest the disclosure, that disclosure:
  - (i) Is essential to safeguard the physical health of others; or
  - (ii) Would afford evidence probative of guilt or innocence in a criminal prosecution.

#### **D.C. CODE § 7-132 (2016)**

*Definitions.*

For the purposes of this subchapter, the term:

(1) "Affected with a communicable disease" means a person infected with a communicable disease or exposed to a chemical or radiological agent who is capable of infecting others with the same disease or chemical or radiological agent if permitted to move freely in the general public, or a person who, while not infected with a communicable disease or exposed to a chemical or radiological agent, is a carrier of, or contaminated with, an infectious disease or chemical or radiological agent and capable of infecting others with the disease or chemical or radiological agent.

(2) "Communicable disease" means any disease:

(A) Denominated a reportable disease pursuant to § 7-131, including any illness due to an infectious agent or its toxic product that is transmitted:

(i) Directly or indirectly to a well person from an infected person, animal, or ectoparasite;  
or

(ii) Through the agency of an intermediate host or vector, or by exposure to chemical or radiological agents within the immediate environment.

**D.C. CODE § 7-133 (2016)**

*Persons believed to be carriers of communicable diseases – Order for removal.*

(a) Whenever the Mayor, after consultation with the Director of the Department of Health, has probable cause to believe that a person is affected with a communicable disease or is a carrier of a communicable disease and that the person's presence in the general population is likely to cause death or seriously impair the health of others, the Mayor may, by written order, direct the removal of that person for the purpose of isolation, quarantine, or treatment. The order shall state a place of detention within the District of Columbia or outside of the District of Columbia; provided, that any place of detention outside the District of Columbia is under the supervision of the District of Columbia government.

**D.C. CODE § 7-134 (2016)**

*Persons believed to be carriers of communicable diseases – Detention; expiration of order; continuation; hearing on detention; minors.*

(a) A copy of the order provided for in § 7-133 shall be delivered to the person in charge of any place or institution where a person or group of persons has been taken or detained, or, if the place of detention is a residence, to any person of suitable age and discretion then present in the residence. The order shall constitute the authority for detention until the order expires. The order shall expire within 24 hours of its issuance unless a judge of the Superior Court of the District of Columbia continues its force and effect for a longer period. The judge shall continue the force and effect of an order if the judge finds that probable cause exists to believe that the detained person's presence in the general population is likely to cause death or seriously impair the health of others.

(b) If a judge continues an order, any person or group of persons detained pursuant to the order may petition for a hearing to determine whether the person or group of persons is affected with a communicable disease, and, if the person or group of persons is affected with a communicable disease, whether release of the person or group of persons into the general population is likely to cause death or seriously impair the health of others. The hearing shall take place as soon as practicable, but no later than 10 days after the court receives the petition.

**D.C. CODE § 7-135 (2016)**

*Persons believed to be carriers of communicable diseases – Examination; diagnosis; detention for quarantine; discharge; public hearing*

(a) The Mayor shall cause to be conducted, by medical personnel designated by the Mayor, medical examinations of all detained persons to determine whether any detained person is affected with a

communicable disease and immediately discharge any person who is not affected with a communicable disease. The diagnosis resulting from the examination shall be in writing and signed by the examining physician. A copy of the signed diagnosis shall be retained by any person in charge of the place or institution of detention, or, if the place of detention is a residence, by any person of suitable age and discretion who resides there. A copy of the signed diagnosis also shall be given to the detained person for whom the diagnosis was made. Another copy of the signed diagnosis shall be transmitted to the appropriate health official as designated by the Mayor.

(b) A person who has been diagnosed as being affected with a communicable disease may be detained for as long as necessary to protect the public health. A person detained pursuant to this subsection may at any time petition the Superior Court of the District of Columbia for a discharge hearing. A person detained pursuant to this subsection who chooses to petition the Superior Court of the District of Columbia for a discharge hearing shall be provided with counsel if the person detained cannot afford counsel.

**D.C. CODE § 7-136 (2016)**

*Persons believed to be carriers of communicable diseases – Leaving detention without discharge.*

It shall be unlawful for a person detained in a place or institution pursuant to an order of the Mayor to leave said place or institution unless discharged in the manner provided in § 7-134 or 7-135.

**D.C. CODE § 7-137 (2016)**

*Persons believed to be carriers of communicable diseases – Arrest.*

(a) In aid of the powers vested in the Mayor to cause the removal to and detention in a place or institution of a person who is affected or is believed, upon probable cause, to be affected with any communicable disease or is or is believed, upon probable cause, to be a carrier of communicable disease as provided in this subchapter, the Superior Court of the District of Columbia, or any judge thereof, is authorized to issue a warrant for the arrest of such person and his removal to a place or institution as defined in § 7-133, which warrant shall be directed to the Chief of Police. When such person has been removed to such place or institution under authority of a warrant issued pursuant to this section, such person shall not be discharged from such place or institution except in the manner provided in § 7-135.

(b) No such warrant of arrest and removal shall be issued except upon probable cause supported by affidavit or affidavits particularly describing the person to be taken, which said affidavit or affidavits shall set forth the facts tending to establish the grounds of the application or probable cause for believing that they exist.

(d) The officer may break open any outer or inner door or window of a house, or any part of a house, or anything therein, to execute the warrant, if, after notice of his authority and purpose, he is refused admittance.

(e) A warrant must be returned to the Court within 10 days after its date; after the expiration of this time the warrant, unless executed, is void.

### **D.C. CODE § 7-139 (2016)**

*Interference unlawful.*

It shall be unlawful for any person knowingly to obstruct, resist, oppose, or interfere with any person performing any duty or function under the authority of this subchapter or any rule or regulation promulgated thereunder.

### **D.C. CODE § 7-140 (2016) \*\***

*Violation of § 7-136, § 7-138, § 7-139, or rules or regulations*

Any person who willfully violates § 7-136, 7-138, or 7-139 or who willfully discloses, receives, uses, or permits the use of information in violation of § 7-131(b) shall be guilty of a misdemeanor and, upon conviction, subject to a fine not exceeding \$ 5,000, imprisonment for not more than 90 days, or both. Any person who willfully violates any rule or regulation issued pursuant to this subchapter shall be guilty of a misdemeanor and, upon conviction, subject to a fine not exceeding \$ 1,000, imprisonment for not more than 30 days, or both. All prosecutions for violations of § 7-136, 7-138 or 7-139 or the rules and regulations issued pursuant to this subchapter shall be in the Criminal Division of the Superior Court of the District of Columbia, in the name of the District of Columbia upon information filed by the Corporation Counsel of the District of Columbia or any of his assistants. The Court may impose conditions upon any person found guilty under the aforesaid provisions and so long as such person shall comply therewith to the satisfaction of the Court the imposition or execution of sentence may be suspended for such period as the Court may direct; and the Court may at or before the expiration of such period vacate such sentence or cause it to be executed. Conditions thus imposed by the Court may include submission to medical and mental examination, diagnosis, and treatment by proper public health and welfare authorities or by any licensed physician approved by the Court, and such other terms and conditions as the Court may deem best for the protection of the community and the punishment, control, and rehabilitation of the defendant.

### **D.C. CODE § 7-144 (2016)**

*Construction.*

Each and every provision of this subchapter shall be constructed liberally in aid of the powers vested in the public authorities looking to the protection of the public health, comfort, and welfare and not by way of limitation.

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## **Code of D.C. Municipal Regulations**

### **TITLE 22. PUBLIC HEALTH AND MEDICINE**

#### **D.C. MUN. REGS. TIT. 22 § 201.5 (2016)**

*Communicable diseases.*

The following diseases shall be considered communicable diseases and shall be reported in writing within forty-eight (48) hours of diagnosis or the appearance of suspicious symptoms in the manner indicated in § 200 of chapter 2 of this title.

(a) Human Immunodeficiency Virus (HIV) infection;

(h) Hepatitis, infectious and serum;

(t) Venereal diseases, including chancroid, gonorrhea, granuloma inguinale, lympho-granuloma venereum, and syphilis.

**D.C. MUN. REGS. TIT. 22 § 210 (2016)**

*Investigations and Enforcement.*

210.1 Upon receiving a report of the existence of a case or suspected case of a communicable disease, or of a communicable disease contact or carrier, the Director shall make any investigation that he or she deems necessary for the purpose of determining the source of infection and of determining if the proper management and control measures are in effect.

210.2 In order to make an investigation under this section, the Director may enter upon and inspect any public or private property in the District.

210.4 Any person having or suspected of having a communicable disease, or any person who is suspected of being a communicable disease contact or carrier, shall, when directed by the Director, submit to an examination for the purpose of determining the existence of a communicable disease.

210.5 A person suspected of having a communicable disease, or a person who is suspected of being a communicable disease contact or carrier, shall submit specimens or permit the obtaining of authentic specimens of body secretions, excretions, body fluids, and discharges for laboratory examinations, when required by the Director. These specimens shall be authenticated, when required by the Director.

210.6 The Director may authorize or order a placard to be posted on the premises occupied by any person affected with a communicable disease.

210.7 No placard authorized or ordered by the Director to be posted shall be mutilated, defaced, obliterated, concealed, or removed, except by authorization of the Director.

210.8 The Director shall issue a Removal and Detention Order and take whatever further proceedings may be required by sections 1 through 14 of the Act (D.C. Official Code §§ 7-131 through 7-144) (2001), whenever the Director has probable cause to believe that any person is affected with, or is a carrier of, a communicable disease, and whenever the Director has probable cause to believe that that person is likely to be dangerous to the life or health of any other person because of the following reasons:

(a) Improper facilities or the lack of facilities for isolation; or

(b) Because of the person's non-cooperation or carelessness, including his or her refusal to submit to examination or refusal to be properly treated or cared for, the person is likely to be a danger to public health.

210.9 Each infected person, contact, or carrier shall comply with the instructions given him or her by the physician or other person responsible for the control of a case of communicable disease.