STATE OF TENNESSEE
DEPARTMENT OF HEALTH
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NASHVILLE, TN 37243

BILL LEE
GOVERNOR

RALPH ALVARADO, MD, FACP
COMMISSIONER

August 23, 2024

The Honorable Aftyn Behn
425 Rep. John Lewis Way N.
Suite 574 Cordell Hull Building
Nashville, TN 37243

SENT VIA ELECTRONIC MAIL

Dear Rep. Behn,

Thank you for your Aug. 2, 2024, letter regarding the status of HIV and syphilis cases in Shelby County. We appreciate your support and collaboration in effectively addressing these critical issues. As you can imagine, the information you have requested is extensive and requires context. Therefore, in response to your request, I asked my team to compile the relevant data, which you will find detailed herein. Also, I have included several attachments that provide context, additional information, and explanation.

The Tennessee Department of Health (TDH) values its partnership with the Shelby County Health Department (SCHD) and we work closely on myriad public health issues, including communicable diseases. Since SCHD is under the jurisdiction of Shelby County government, not the TDH, I would encourage you to reach out to SCHD leadership if you have questions on a particular public health response in Shelby County and for additional information.

The following are direct responses to each inquiry in your Aug. 2, 2024, letter.

1. **Impact of Recent Legislation:**
   - **How does HB2936/SB2749 impact the ability of the Departments of Health to provide HIV and syphilis testing to minors under the age of 18? Will minors need to receive parental consent before being tested for HIV?**

   - **Does the Mature Minor Doctrine and current case law apply to HB2936/SB2749?**

TDH has spent quite a bit of time carefully formulating procedure to comply with HB2936/SB2749. Please find Included with this letter a copy of our revised Standard Operating Procedure, *Confirming Guardianship rev. August 15, 2024*, instructing staff in the 89 health departments under TDH jurisdiction, how to comply with the new statute.

2. Resource Allocation: How has the decision to cut federal HIV funding impacted this current outbreak? Are there plans to allocate additional resources to HIV and STI prevention programs in light of the rising infection rates?

First. it is important to correct the record of news media reports mischaracterizing the public health situation in Shelby County as an "outbreak." Earlier this year, communicable disease surveillance, identified a potential, abnormal increase of syphilis cases in Shelby County. Surveillance reports indicated a number of these case increases were in the 15- to 19-year-old population (see attached figures). SCHD and TDH, with extensive, on-site support from the U.S. Centers for Disease Control and Prevention (CDC) rapidly initiated a coordinated response in Shelby County. Unfortunately, it became immediately apparent SCHD faced a backlog of several hundred reported cases of both HIV and syphilis, extending back as far as two years, which SCHD public health authorities had not been able to investigate. SCHD reported this backlog was due in large part to understaffing of SCHD Disease Investigators (DIS) associated with personnel hiring challenges.

In response, TDH deployed additional investigative staff from several Local Health Departments and TDH's Nashville central office, and from the CDC, to help clear the backlog of investigations as quickly as possible. Once the backlog was addressed, and this is a **critical point**, there was **not** a significant, acute spike or "outbreak" indicated, as reported by the press. In fact, patterns have been consistent with statewide trends (see Figures). However, as you noted in your letter, this level of cases is of great concern, and requires ongoing, intensive, and multi-pronged efforts to control.

Regarding the replacement of federal HIV prevention funding with state HIV prevention funding, I do not have any data indicating the decision to forego federal funding has had a negative impact on HIV testing and treatment, particularly in Shelby County. In fact, in the attached bar graphs of HIV infections in Shelby County – *Number of Shelby County Residents Newly Diagnosed by Month* and *Number of Shelby County Residents Aged 15-19 Newly Diagnosed with HIV by Month* – there is indicated a decrease in the number of HIV infections per month for the previous 14 months Tennessee has used state HIV prevention funding, compared to the preceding 14 months when Tennessee used federal HIV prevention funding.

The following chart denotes state funding to SCHD from Fiscal Year (FY) 2019 through Fiscal Year (FY) 2024, and the total amount invoiced (expended) by SCHD.

State funding to Shelby County Health Department, FY19-FY23

Fiscal Year	Funding Amount	Total Invoiced Amount	% Invoiced
FY19	$816,100.00	$647,344.63	79%
FY20	$1,378,500.00	$1,364,878.11	99%
FY21	$1,420,600.00	$665,320.91	47%
FY22	$1,734,770.00	$665,118.39	38%
FY23	$1,502,806.00	$418,188.21	28%
FY24	$1,716,400.00	$885,414.89	52%

From FY19 through FY23, the state received CDC HIV prevention grants. The funding amount in FY24 is completely from state dollars. In FY23, the last year the state received CDC HIV prevention grants, Shelby County drew down $418,188, of an available $1,502,806, or 28% of the federal grant funding they were eligible to receive.

In the year since the state budget allocation to HIV prevention funding, Shelby County has received $1,716,400 in state funding for FY24, distributed on Oct. 16, 2023. As of Aug. 4, 2024, Shelby County has spent $885,414.89 of the FY24 funding, which is 52% of Shelby County's total HIV prevention funding Shelby County received. Shelby County is in the process of spending the remainder of the FY24 funding.

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It is worth reminding the honorable General Assembly members, the process to draw down CDC HIV prevention grant funds was cumbersome and inefficient. Based on feedback from SCHD, and other state partners, the state funding for HIV prevention, made available by the General Assembly, is easier to apply for and to draw down, because all of the funding is provided at the start of the grant. Bottom-line, all the "red tape" associated with drawing down federal funds has been removed, thanks to the direct appropriation from the General Assembly for state HIV prevention grants.

Based on TDH's partner feedback and a diminished monthly HIV rate, I believe the decision to use state HIV prevention funding was correct and will lead to a more efficient use of taxpayer funds and better results. I strongly encourage the General Assembly's continued support for this budget allocation in the years ahead.

3. **Public Health Initiatives: What new or ongoing public health initiatives are being implemented to address this surge in HIV and syphilis cases? How are these initiatives tailored to the most affected zip codes in Shelby County?**

Unfortunately, both HIV rates and increasing syphilis rates in Shelby County are reflective of rates in Tennessee overall, and nationally. The nation-wide syphilis epidemic has received tremendous local, state, and federal attention with ongoing, substantive efforts to respond aggressively in every way possible. Tennessee is implementing all widely recommended interventions to help stem the tide of these infections.

In addition to direct HIV prevention funds from the state, SCHD also has collaborated with several community-based organizations that receive support from a combination of federal and state resources. Prevention of HIV and support of HIV patients are high priorities for all of Tennessee's state and metro health departments. Continued state appropriations will be critical to keep pace with rising infection rates.

Public health efforts focused on preventing STI transmission and linking patients to care are synergistic and impact syphilis and HIV both.

The question of "tailoring" initiatives to the most affected zip codes in Shelby County is better addressed by SCHD leadership and staff who are working diligently to create programs specific for their community.

4. **Community Engagement: How is the TDH engaging with local communities, particularly in the high-incidence zip codes, to raise awareness and encourage testing and treatment? 5. With Memphis ranking second in the nation in HIV cases, what are the plans to combat HIV case increases in Memphis specifically?**

TDH works closely with SCHD to address the burden of all communicable diseases, including STIs, focusing on populations at highest risk. Community education, outreach, and testing occur throughout Shelby County, and all other counties in the state, with emphasis in communities (e.g., zip codes) with the highest burden of disease. When public health departments identify certain zones or demographic groups with high levels of activity or risk, we work to reach these groups with prevention messages and testing efforts. For example, TDH and SCHD have partnered with clinicians and hospitals to educate providers on rates and testing recommendations. Additionally, SCHD partners with many community-based organizations for these activities.

TDH provides assistance and technical expertise to analyze the spread of disease in different geographical zones, across age groups and sexes, and among persons of various races, and to manage and investigate new cases of illness. As noted previously, during 2024 TDH pulled teams from other counties and temporarily deployed them to Shelby County to provide direct support in addressing the substantial backlogs in case investigations. Unfortunately, dependency on such cross-jurisdictional personnel is difficult to sustain. It is critical Shelby County receive support to establish plans for a long-term approach to capacity improvement.

TDH continues to support SCHD vigorously to every extent possible, during the events of the last few months and for the long term. SCHD has substantial in-house experience and has made significant progress in ongoing efforts to address the issues you and your fellow General Assembly have raised.

I would encourage you and your fellow members to have a discussion with SCHD on direct questions, since conditions and barriers vary widely across Tennessee's independent public health jurisdictions.

SCHD will have information regarding the local situation and challenges in Shelby County in more intimate detail than we can provide.

Thank you for your interest in these important issues. Please let me know if any of my staff or I may be of further assistance.

Sincerely,

Ralph Alvarado, MD, FACP
Commissioner

cc: Leader Karen Camper
House Representative

Jesse Chism
House Representative

John Ray Clemmons
House Representative

Vincent Dixie
House Representative

Bob Freeman
House Representative

Yusuf Hakeem
House Representative

Caleb Hemmer
House Representative

Gloria Johnson
House Representative

Sam McKenzie
House Representative

Larry Miller
House Representative

Bo Mitchell
House Representative

Jason Powell
House Representative

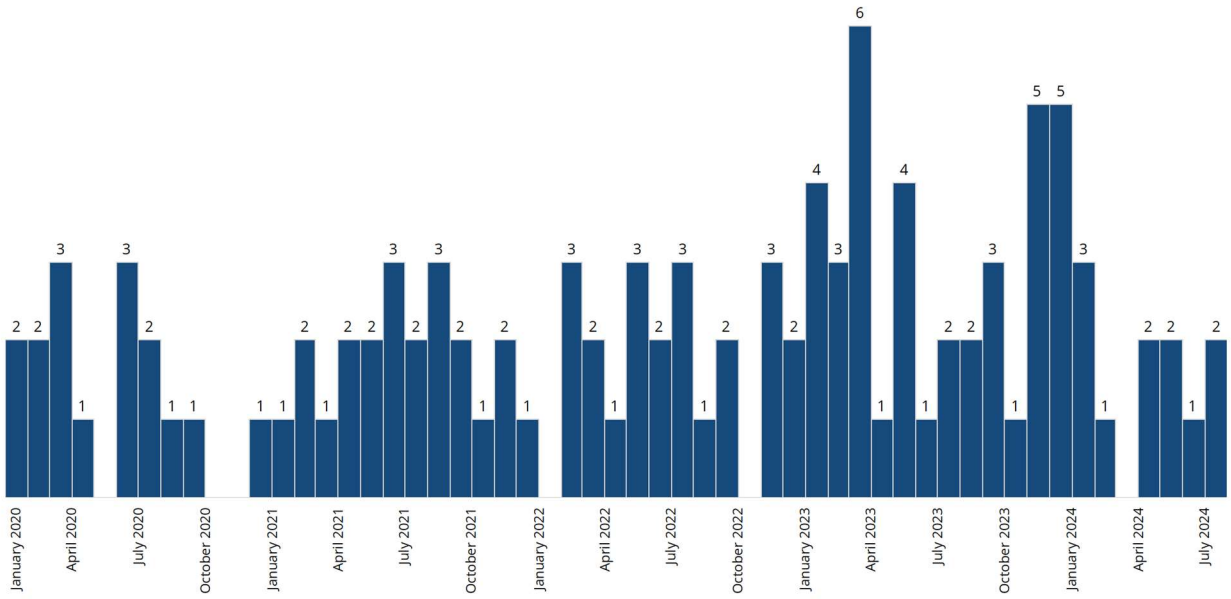
Johnny Shaw
House Representative

Sara Kyle
State Senator

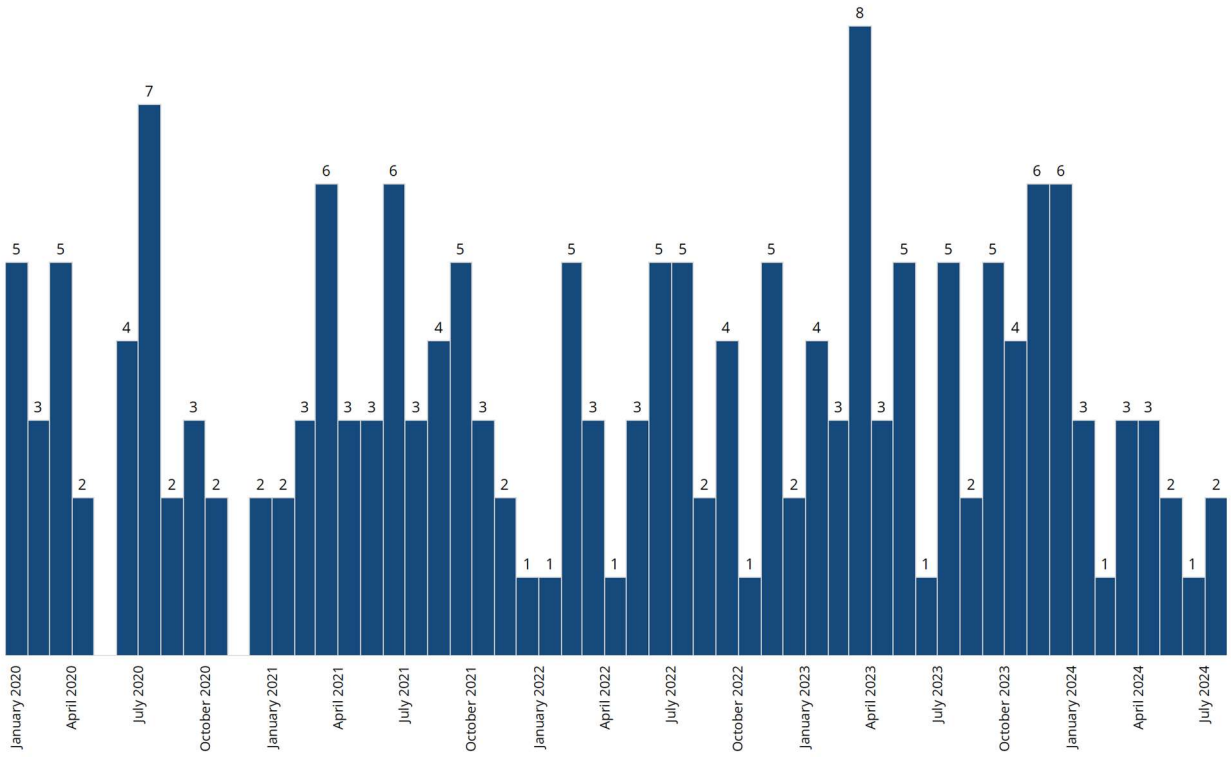
Heidi Campbell
State Senator

London Lamar
State Senator

Number of Shelby County Residents Aged 15–19 Newly Diagnosed with HIV by Month, 1/1/2020–7/31/2024



Number of Tennessee Residents Aged 15–19 Newly Diagnosed with HIV by Month, 1/1/2020–7/31/2024



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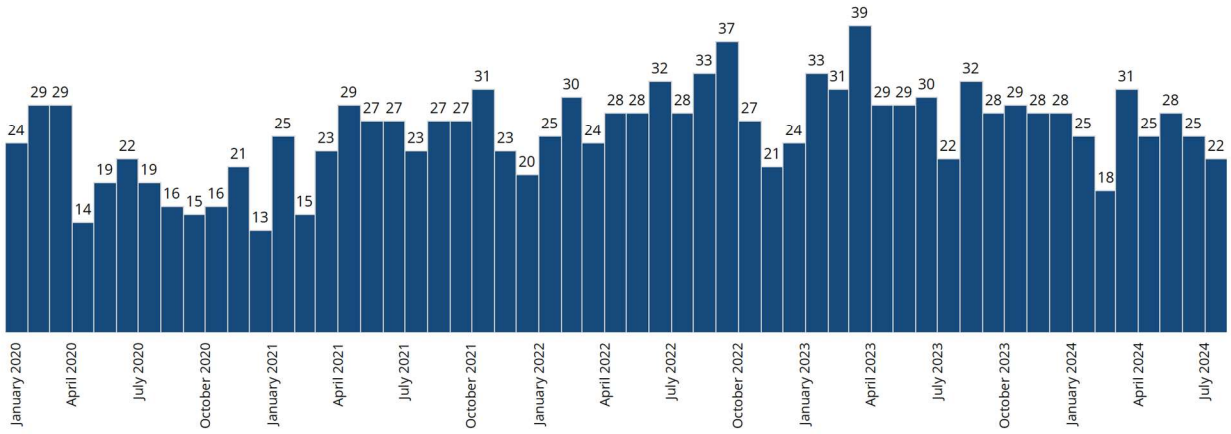

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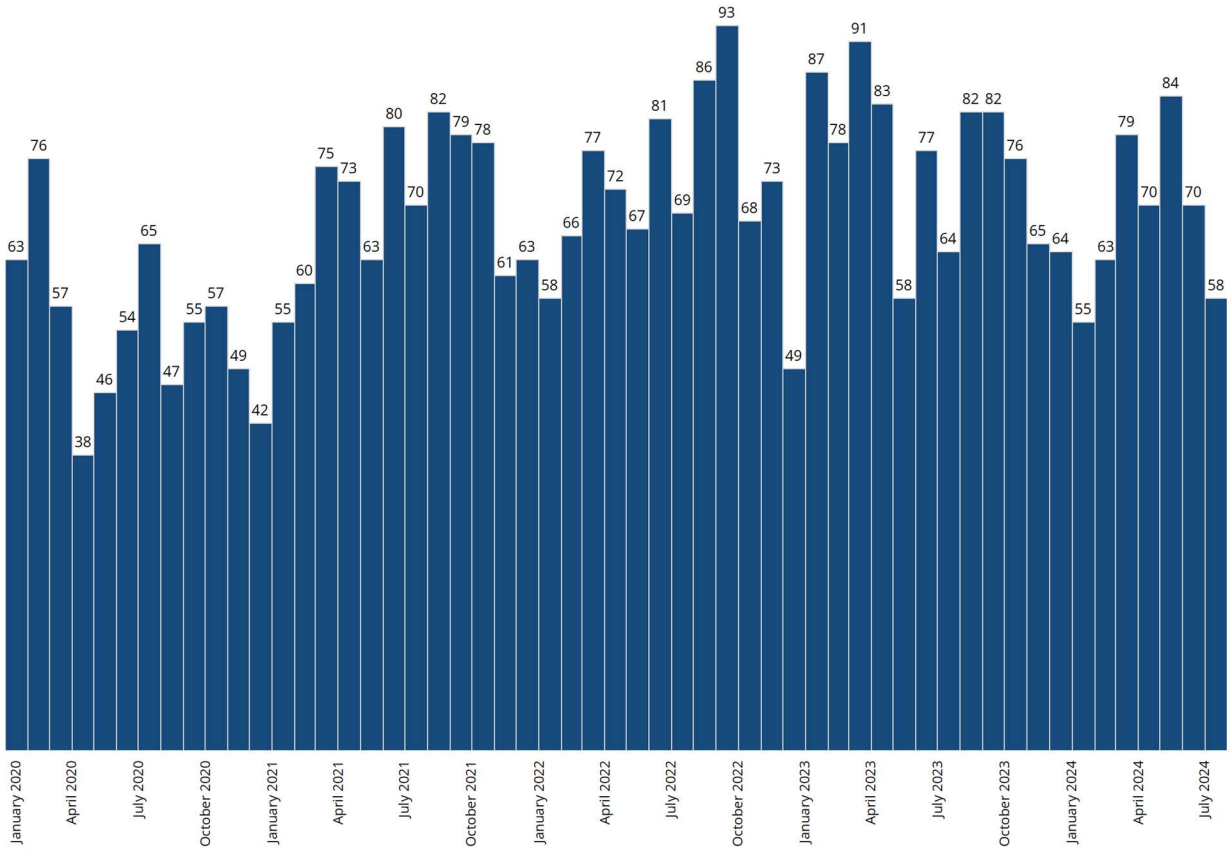

TN Department of Health

STANDARD OPERATING PROCEDURE

Confirming Guardianship

Title: *Confirming Guardianship rev. August 15, 2024*

Program or Office: Community Health Services (CHS)

Effective Date: July 1, 2024

Division Head: Alan Goodwin

Signature: 

Program Contact: Jennifer Dudzinski/ Tamara Watkins

A parent or legal guardian must provide consent for all medical care for children less than 18 years of age unless the minor is emancipated, is or was previously a member of the US armed forces or the reserve or national guard, or is a parent of a minor child and has full custody of that child.

If the child is in DCS custody, use the Minor Consent DCS Custody SOP No. CHS-24-2-16.

Procedure :

1. Obtain the following information when the parent or legal guardian is present:
    a. Child's name, date of birth, and social security number if available
    b. Parent's information (one or both): date of birth, copy of state issued ID (such as a driver's license), phone number, address, and email address if available.
    c. Ask the adult presenting with the child**, Are you listed on the child's birth certificate?**
        i. If yes, they adult may consent.
        ii. If not, the adult may not consent as the parent.
        iii. If not sure, have the individual sign a sworn statement that he/ she is the child's parent.
    d. Adult presenting with child if not parent: date of birth, state issued ID (such as a driver's license), phone number, address, and email address. State ID will be copied, adult information documented, and scanned into the medical record.
        i. **Do you have legal guardianship of the child?** If yes, continue to ask for proof. If no, this person may not be able give consent.
            1. Legal Guardianship can be proven by: **Ask for a copy of the guardianship paperwork (a court document signed by a judge that grants decision maker rights to the person presenting with the child).** If the person presenting is the legal guardian of the minor child, they can consent for care. Review and place a copy of these documents in the record. If you have questions or are unsure if the

document grants decision maker authority, reach out to OGC for review prior to treating the child.

2. If the adult is not the legal guardian, ask the adult presenting with the child: **Do you have a signed and valid power of attorney from the parent?** If yes, ask for proof.
    a. If the presenting adult says they have Power of Attorney document: The document must specify Power of Attorney for healthcare and meet the checklist provided by OGC (Attachment 1) or be approved by OGC. If it does not, they may not consent for the child. If the POA document is from another state or a country outside of the US, the patient may be seen for that visit only. Before the next visit, a Tennessee POA must be obtained.

2. **Verbal consent:** If the adult with the child is not the parent, legal guardian, and does not have power of attorney, or the child is unaccompanied, **you may attempt to obtain verbal consent from the parent or legal guardian by following the Obtaining Verbal Consent SOP No. CHS-24-6-26-2 except for COVID-19 vaccination.**
3. **If all of the conditions above have been reviewed and documented, "In Loco Parentis" may be used** if the provider feels that it is appropriate (e.g., does not have reason to believe that any answers to prior questions were untruthful, etc.).
    a. Complete the In Loco Parentis affidavit and scan into the medical record.
    b. However, note that "In Loco Parentis" cannot be used for vaccination.
4. In the event of suspected child abuse, follow the established child abuse reporting policy to notify DCS or emergency personnel if needed. Parental consent is not required.
5. **Exceptions:** Exceptions to the above requirements for parental consent exist in the following situations:
    a. In accordance with T.C.A. § 68-10-104, a minor may be examined for a STD when there is clinical or epidemiological evidence that the minor is infected with a STD, and that minor may be diagnosed and treated without parental consent when that minor is infected with an STD.
    b. In accordance with T.C.A. § 68-34-107, a minor may be provided contraceptive supplies and information without parental consent when the minor requests birth control procedures, supplies, or information.

Resources: DCS treatment SOP No. CHS-24-2-16, verbal consent SOP No. CHS-24-6-26-2, Power of Attorney OGC checklist, Vaccination consent form