§ 178. Medical examination of public protection officials to detect and identify the human immunodeficiency virus (HIV). 1. Definitions. For the purposes of this section:

(a) "Assailant" means a person arrested and charged with a crime, as defined in section 10.00 of the penal law, or a person committed to, certified to, or placed in the custody of the department of corrections and community supervision or any other correctional facility or county jail.

(b) "Medical examination" includes a physical examination or test performed by a physician or other appropriate health care worker to determine if a public protection official has been exposed to or infected by the human immunodeficiency virus (HIV). Tests may include, but need not be limited to, the most accurate, sensitive, and timely tests available used for the early identification of the human immunodeficiency virus (HIV).

(c) "Public protection official" means any state, county or municipal police officer, peace officer, firefighter, emergency medical technician, corrections officer, or sheriff who is acting under the scope of authority of his or her official position.

(d) "Significant risk of transmission" means the alleged conduct of or actions taken by an assailant or any other action, situation or event that occurs while a public protection official is performing his or her official duties that has created a recognized and significant risk of infection of a public protection official with the human immunodeficiency virus (HIV), as determined by the commissioner of health, consistent with guidelines, protocols, and findings of the United States centers for disease control and prevention.

2. Examination of public protection officials. (a) Whenever a public protection official has been exposed to a significant risk of transmission of the human immunodeficiency virus (HIV) while performing his or her official duties, the employer of such official shall provide to such public protection official an appropriate medical examination to determine if such official has been exposed to or infected with the human immunodeficiency virus (HIV). Such medical examination of a public protection official should be provided within eight hours of notification to the employer or designated agent of the employer of an

incident that has created an exposure risk to the official.

(b) Should it be determined by the examining physician or other attending health care worker that a significant risk of transmission has occurred, or should any medical examination conclude that a public protection official has been exposed to or infected with the human immunodeficiency virus (HIV), then such official shall be offered counseling and additional testing, as appropriate and consistent with treatment guidelines issued by the commissioner of health. Such counseling may include a discussion of the risk of the transmission of the human immunodeficiency virus (HIV) from the exposure he or she may have experienced and the spectrum of tests commercially available for the prompt and reliable diagnosis of such infection. Information from any such medical examination of a public protection official shall be confidential information pursuant to article twenty-seven-F of the public health law and shall not be made available to the employer without the written authorization of the affected public protection official.

3. Payment for medical examinations. Payment for medical examinations, additional testing, treatment services, counseling services, and any other additional services provided pursuant to subdivision two of this section shall be covered by subdivision three of section ten of the workers' compensation law; provided that any employer which is not required to and does not provide coverage pursuant to subdivision three of section ten of the workers' compensation law may finance such payments for all of the foregoing services provided for by this section from municipal funding sources, including, but not limited to, employee accident and disability benefit programs, workers' compensation funds, health insurance benefits, accident and disability retirement plans, or any other source of funds that the municipal employer deems appropriate.

4. Guidelines. The commissioner of health shall issue guidelines to facilitate the identification of circumstances potentially exposing a public protection official to a significant risk of transmission of the human immunodeficiency virus (HIV). Such guidelines shall be consistent with criteria accepted by the federal centers for disease control and prevention. Such guidelines shall also provide information regarding

related counseling and testing procedures available to such individuals.

5. Confidentiality. Any information gathered pursuant to the provisions of this article which is deemed confidential under any other provision of law shall be treated in a confidential manner and shall not be distributed, be made available or be disclosed by the employer.