

1 AN ACT concerning health.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Perinatal HIV Prevention Act is amended by  
5 changing Sections 5, 10, 15, 30, and 35 as follows:

6 (410 ILCS 335/5)

7 Sec. 5. Definitions. In this Act:

8 "Birth center" means a facility licensed by the Department  
9 under paragraph (6) of Section 35 of the Alternative Health  
10 Care Delivery Act.

11 "Department" means the Department of Public Health.

12 "Health care professional" means a physician licensed to  
13 practice medicine in all its branches, a licensed physician  
14 assistant, or a licensed advanced practice nurse.

15 "Health care facility" or "facility" means any hospital,  
16 birth center, or other institution that is licensed or  
17 otherwise authorized to deliver health care services.

18 "Health care services" means any prenatal medical care or  
19 labor or delivery services to a pregnant woman and her newborn  
20 infant, including hospitalization.

21 "Opt-out testing" means an approach in which an HIV test is  
22 offered to the patient, such that the patient is notified that  
23 HIV testing may occur unless the patient opts out by declining

1 the test.

2 "Third trimester" means the 27th week of pregnancy through  
3 delivery.

4 (Source: P.A. 99-173, eff. 7-29-15.)

5 (410 ILCS 335/10)

6 Sec. 10. HIV counseling and offer of HIV testing required.

7 (a) Every health care professional who provides health care  
8 services to a pregnant woman shall, unless she already has a  
9 negative HIV status ~~has already been tested~~ during the third  
10 trimester of the current pregnancy, or is already HIV-positive,  
11 provide the woman with HIV counseling, as described in subpart  
12 (d) of this Section, and shall test her for HIV on an opt-out  
13 basis unless she refuses. The counseling and testing or refusal  
14 of testing shall comply with the requirements for informed  
15 consent in the AIDS Confidentiality Act and be documented in  
16 the pregnant woman's medical record as required by the AIDS  
17 Confidentiality Act. ~~A refusal may be verbal or in writing.~~

18 A health care professional shall provide the first opt-out  
19 HIV testing ~~counseling and recommend the testing~~ as early in  
20 the woman's pregnancy as possible. The health care professional  
21 providing health care services to a pregnant woman in the third  
22 trimester shall perform a second round of opt-out HIV testing,  
23 ideally by the 36th week of pregnancy, unless the pregnant  
24 woman already has a negative HIV status from the third  
25 trimester of the current pregnancy, or is already HIV-positive.

1 ~~For women at continued risk of exposure to HIV infection in the~~  
2 ~~judgment of the health care professional, a repeat test should~~  
3 ~~be recommended late in pregnancy or at the time of labor and~~  
4 ~~delivery. The counseling and testing or refusal of testing~~  
5 ~~shall be documented in the woman's medical record.~~

6 (b) Every health care professional or facility that cares  
7 for a pregnant woman during labor or delivery shall, unless she  
8 ~~has~~ already has a negative HIV status from ~~been tested during~~  
9 the third trimester of the current pregnancy, or is already  
10 HIV-positive, provide the woman with HIV counseling, as  
11 described in subpart (d) of this Section, and rapid opt-out HIV  
12 testing ~~unless she refuses~~. The woman in labor or delivery may  
13 refuse the HIV test verbally or in writing. ~~A refusal may be~~  
14 ~~verbal or in writing~~. The counseling and testing or refusal of  
15 testing shall be documented in the laboring or delivering  
16 woman's medical record. The health care facility shall adopt a  
17 policy that provides that as soon as possible within medical  
18 standards after the infant's birth, the delivering mother's HIV  
19 test result, if available, shall be noted in the newborn  
20 infant's medical record. It shall also be noted in the newborn  
21 infant's medical record if the mother's third trimester HIV  
22 test result is not available because she was not tested in the  
23 third trimester ~~has not been tested~~ or has declined testing.  
24 Any testing or test results shall be documented in accordance  
25 with the AIDS Confidentiality Act.

26 (c) Every health care professional or facility caring for a

1 newborn infant shall, upon delivery or as soon as possible  
2 within medical standards after the infant's birth, provide  
3 counseling as described in subsection (d) of this Section to  
4 the parent or guardian of the infant and perform rapid HIV  
5 testing on the infant, when the HIV status of the infant's  
6 mother is unknown, or if the delivering woman did not undergo  
7 HIV testing in the third trimester of the current pregnancy.

8 (d) The counseling required under this Section must be  
9 provided in accordance with the AIDS Confidentiality Act and  
10 must include the following:

11 (1) For the health of the pregnant woman, the voluntary  
12 nature of the testing, the benefits of HIV testing,  
13 including the prevention of transmission, and the  
14 requirement that HIV testing be performed unless she  
15 refuses and the methods by which she can refuse.

16 (2) The benefit of HIV testing for herself and the  
17 newborn infant, including interventions to prevent HIV  
18 transmission.

19 (3) The side effects of interventions to prevent HIV  
20 transmission.

21 (4) The statutory confidentiality provisions that  
22 relate to HIV and acquired immune deficiency syndrome  
23 ("AIDS") testing.

24 (5) The requirement for mandatory testing of the  
25 newborn if the mother's HIV status during the third  
26 trimester of pregnancy is unknown and if the mother was not

1       rapidly tested for HIV at delivery ~~at the time of delivery.~~

2           (6) An explanation of the test, including its purpose,  
3       limitations, and the meaning of its results.

4           (7) An explanation of the procedures to be followed.

5           (8) The availability of additional or confirmatory  
6       testing, if appropriate. Counseling may be provided in  
7       writing, verbally, or by video, electronic, or other means.  
8       The pregnant or delivering woman must be offered an  
9       opportunity to ask questions about testing and to decline  
10      testing ~~for herself~~.

11          (e) All counseling and testing must be performed in  
12      accordance with the standards set forth in the AIDS  
13      Confidentiality Act, including the informed consent provisions  
14      of Sections 4, 7, and 8 of that Act, with the exception of the  
15      requirement of consent for testing of newborn infants.

16          Consent for testing of a newborn infant shall be presumed  
17      when a health care professional or health care facility seeks  
18      to perform a test on a newborn infant whose mother's HIV status  
19      is not known either in the third trimester of pregnancy or at  
20      delivery, provided that the counseling required under  
21      subsection (d) of this Section and the AIDS Confidentiality Act  
22      has taken place.

23          (f) The Illinois Department of Public Health shall adopt  
24      necessary rules to implement this Act by July 1, 2008.

25      (Source: P.A. 94-910, eff. 6-23-06; 95-702, eff. 6-1-08.)

1 (410 ILCS 335/15)

2 Sec. 15. Reporting.

3 (a) Health ~~A health care facilities facility~~ shall adopt a  
4 policy that provides that a report of a preliminarily  
5 HIV-positive woman identified by a rapid HIV test or ~~and~~ a  
6 report of a preliminarily HIV-exposed newborn infant  
7 identified by a rapid HIV test ~~conducted during labor and~~  
8 ~~delivery or after delivery~~ shall be made to the Department's  
9 Perinatal HIV Hotline within 12 hours but not later than 24  
10 hours of the test result ~~after birth~~. Section 15 of the AIDS  
11 Confidentiality Act applies to reporting under this Act, except  
12 that the immunities set forth in that Section do not apply in  
13 cases of willful or wanton misconduct.

14 (b) The Department shall adopt rules specifying the  
15 information required in reporting the preliminarily  
16 HIV-positive pregnant or post-partum woman and preliminarily  
17 HIV-exposed newborn infant and the method of reporting. In  
18 adopting the rules, the Department shall consider the need for  
19 information, protections for the privacy and confidentiality  
20 of the infant and parents, the need to provide access to care  
21 and follow-up services to the infant, and procedures for  
22 destruction of records maintained by the Department if, through  
23 subsequent HIV testing, the pregnant or post-partum woman or  
24 newborn infant is found to be HIV-negative.

25 (c) The confidentiality provisions of the AIDS  
26 Confidentiality Act shall apply to the reports of cases of

1 perinatal HIV made pursuant to this Section.

2 (d) Health care facilities shall monthly report aggregate  
3 statistics to the Department that include the number of  
4 pregnant or delivering ~~infected~~ women who presented with known  
5 HIV status;; the number of pregnant women rapidly tested for  
6 HIV in labor and delivery as either a first HIV test or a  
7 repeat third trimester HIV test; the number of newborn infants  
8 rapidly tested for HIV-exposure because the HIV status of the  
9 delivering woman was unknown in the third trimester, or the  
10 delivering woman refused testing; the number of preliminarily  
11 HIV-positive pregnant or delivering women and preliminarily  
12 HIV-exposed newborn infants identified;; the number of  
13 families referred to case management;; and other information  
14 the Department determines is necessary to measure progress  
15 under the provisions of this Act. Health care facilities must  
16 report the confirmatory test result when it becomes available  
17 for each preliminarily positive rapid HIV test performed on the  
18 pregnant or delivering woman and on a newborn.

19 (e) The Department or its authorized representative shall  
20 provide case management services to the preliminarily positive  
21 pregnant or post-partum woman or the parent or guardian of the  
22 preliminarily positive newborn infant to ensure access to  
23 treatment and care and other services where the pregnant or  
24 post-partum woman or the ~~as appropriate if the~~ parent or  
25 guardian of the newborn infant has consented to the services.

26 (f) Every health care facility caring for a newborn infant

1 whose mother had been diagnosed HIV positive prior to labor and  
2 delivery shall report a case of perinatal HIV exposure in  
3 accordance with the HIV/AIDS Registry Act, the Illinois  
4 Sexually Transmissible Disease Control Act, and rules to be  
5 developed by the Department. If after 18 months from the date  
6 that the report was submitted, a newborn infant is determined  
7 to not have HIV or AIDS, the Department shall remove the  
8 newborn infant's name from all reports, records, and files  
9 collected or created under this subsection (f).

10 (Source: P.A. 94-910, eff. 6-23-06; 95-702, eff. 6-1-08.)

11 (410 ILCS 335/30)

12 Sec. 30. Objections of parent or guardian to test. The  
13 provisions of this Act requiring testing for HIV shall not  
14 apply when a parent or guardian of a child objects to HIV  
15 testing thereto on the grounds that the test conflicts with the  
16 parent's ~~his or her~~ religious tenets and practices. A written  
17 statement of the objection shall be presented to the physician  
18 or other person whose duty it is to administer and report the  
19 tests under the provisions of this Act.

20 (Source: P.A. 94-910, eff. 6-23-06.)

21 (410 ILCS 335/35)

22 Sec. 35. Department report. The Department of Public Health  
23 shall prepare an annual report for the Governor and the General  
24 Assembly on the implementation of this Act that includes



1 information on the number of HIV-positive pregnant women who  
2 presented with known HIV status, the number of pregnant women  
3 rapidly tested for HIV in labor and delivery, the number of  
4 newborn infants rapidly tested for HIV exposure, the number of  
5 preliminarily HIV-positive pregnant women and preliminarily  
6 HIV-exposed newborn infants identified, the confirmatory test  
7 result for each preliminarily positive rapid HIV test performed  
8 on the woman and newborn, the number of families referred to  
9 case management, and other information the Department  
10 determines is necessary to measure progress under the  
11 provisions of this Act. The Department shall assess the needs  
12 of health care professionals and facilities for ongoing  
13 training in implementation of the provisions of this Act and  
14 make recommendations to improve the program.

15 (Source: P.A. 94-910, eff. 6-23-06.)

16 Section 99. Effective date. This Act takes effect upon  
17 becoming law.