



Rep. Mary E. Flowers

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1 AMENDMENT TO HOUSE BILL 2800

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 2800 by replacing  
3 everything after the enacting clause with the following:

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 "Birthing center" means a designated site that is away from  
9 the pregnant women usual place of residence in which births are  
10 planned to occur following a normal, uncomplicated, and  
11 low-risk pregnancy.

12 "Department" means the Department of Public Health.

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

16 "Health care facility" or "facility" means any hospital,

1 birthing center, or other institution that is licensed or  
2 otherwise authorized to deliver health care services.

3 "Health care services" means any prenatal medical care,  
4 emergency care, or labor or delivery services to a pregnant  
5 woman and her newborn infant, including hospitalization.

6 "Opt-out testing" means an approach in which an HIV test is  
7 offered to the patient, such that the patient is notified that  
8 HIV testing may occur unless the patient opts out by declining  
9 the test.

10 "Third trimester" means the 27th week of pregnancy through  
11 delivery.

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

13 (410 ILCS 335/10)

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

15 (a) Every health care professional who provides health care  
16 services to a pregnant woman including women identified as  
17 pregnant and being treated for other health conditions in an  
18 emergency setting, shall, unless the pregnant woman already has  
19 a documented negative HIV status ~~she has already been tested~~  
20 during the third trimester of the current pregnancy, or is  
21 already documented to be HIV-positive, provide the pregnant  
22 woman with HIV counseling, as described in subpart (d) of this  
23 Section, and shall test the pregnant woman ~~her~~ for HIV on an  
24 opt-out basis ~~unless she refuses.~~ The counseling and testing or  
25 refusal of testing shall be documented in the pregnant woman's

1 medical record. ~~A refusal may be verbal or in writing.~~

2 A health care professional shall provide the first opt-out  
3 HIV testing ~~counseling and recommend the testing~~ as early in  
4 the woman's pregnancy as possible. The health care professional  
5 providing health care services to a pregnant woman in the third  
6 trimester shall perform a second round of opt-out HIV testing,  
7 ideally by the 36th week of pregnancy, unless the pregnant  
8 woman already has a documented negative HIV status from the  
9 third trimester of the current pregnancy, or is already  
10 documented to be HIV-positive. ~~For women at continued risk of~~  
11 ~~exposure to HIV infection in the judgment of the health care~~  
12 ~~professional, a repeat test should be recommended late in~~  
13 ~~pregnancy or at the time of labor and delivery. The counseling~~  
14 ~~and testing or refusal of testing shall be documented in the~~  
15 ~~woman's medical record.~~

16 (b) Every health care professional or facility that cares  
17 for a pregnant woman during labor or delivery shall, unless the  
18 pregnant woman ~~she has~~ already has a documented negative HIV  
19 status from ~~been tested during~~ the third trimester of the  
20 current pregnancy, or is already documented to be HIV-positive,  
21 provide the pregnant woman with HIV counseling, as described in  
22 subpart (d) of this Section, and rapid opt-out HIV testing  
23 ~~unless she refuses.~~ The woman in labor or delivery may refuse  
24 the HIV test verbally or in writing. ~~A refusal may be verbal or~~  
25 ~~in writing.~~ The counseling and testing or refusal of testing  
26 shall be documented in the laboring or delivering woman's

1 medical record. The health care facility shall adopt a policy  
2 that provides that as soon as possible within medical standards  
3 after the infant's birth, the delivering woman's ~~mother's~~ HIV  
4 test result, if available, shall be noted in the newborn  
5 infant's medical record. It shall also be noted in the newborn  
6 infant's medical record if the woman's third trimester ~~mother's~~  
7 HIV test result is not available because the woman was not  
8 tested in the third trimester ~~she has not been tested~~ or has  
9 declined testing. Any testing or test results shall be  
10 documented in accordance with the AIDS Confidentiality Act.

11 (c) Every health care professional or facility caring for a  
12 newborn infant shall, upon delivery or as soon as possible  
13 within medical standards after the infant's birth, provide  
14 counseling as described in subsection (d) of this Section to  
15 the parent or guardian of the infant and perform rapid HIV  
16 testing on the infant, when the HIV status of the infant's  
17 mother is unknown, or if the woman did not undergo HIV testing  
18 in the third trimester of the current pregnancy.

19 (d) The counseling required under this Section must be  
20 provided in accordance with the AIDS Confidentiality Act and  
21 must include the following:

22 (1) For the health of the pregnant woman, the voluntary  
23 nature of the testing, the benefits of HIV testing,  
24 including the prevention of transmission, and the  
25 requirement that HIV testing be performed unless the  
26 pregnant woman ~~she~~ refuses and the methods by which the

1 pregnant woman ~~she~~ can refuse.

2 (2) The benefit of HIV testing for the pregnant woman  
3 ~~herself~~ and the newborn infant, including interventions to  
4 prevent HIV transmission.

5 (3) The side effects of interventions to prevent HIV  
6 transmission.

7 (4) The statutory confidentiality provisions that  
8 relate to HIV and acquired immune deficiency syndrome  
9 ("AIDS") testing.

10 (5) The requirement for mandatory testing of the  
11 newborn if the pregnant woman's ~~mother's~~ HIV status during  
12 the third trimester of pregnancy is not documented and the  
13 pregnant woman was not rapidly tested for HIV at delivery  
14 ~~unknown at the time of delivery.~~

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

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

18 (8) The availability of additional or confirmatory  
19 testing, if appropriate. Counseling may be provided in  
20 writing, verbally, or by video, electronic, or other means.  
21 The pregnant woman must be offered an opportunity to ask  
22 questions about testing and to decline testing ~~for herself~~.

23 (e) All counseling and testing must be performed in  
24 accordance with the standards set forth in the AIDS  
25 Confidentiality Act, including the informed consent provisions  
26 of Sections 4, 7, and 8 of that Act, with the exception of the

1 requirement of consent for testing of newborn infants.

2 Consent for testing of a newborn infant shall be presumed  
3 when a health care professional or health care facility seeks  
4 to perform a test on a newborn infant when the ~~whose mother's~~  
5 HIV status of the woman who gave birth to the infant was ~~is~~ not  
6 documented either in the third trimester of pregnancy or at  
7 delivery ~~known~~, provided that the counseling required under  
8 subsection (d) of this Section and the AIDS Confidentiality Act  
9 has taken place.

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

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

13 (410 ILCS 335/15)

14 Sec. 15. Reporting.

15 (a) Health ~~A health~~ care facilities ~~facility~~ shall adopt a  
16 policy that provides that a report of a preliminarily  
17 HIV-positive pregnant or post-partum woman identified by a  
18 rapid HIV test or ~~woman and~~ a report of a preliminarily  
19 HIV-exposed newborn infant identified by a rapid HIV test  
20 ~~conducted during labor and delivery or after delivery~~ shall be  
21 made to the Department's Perinatal HIV Hotline within 12 hours  
22 but not later than 24 hours of the test result ~~after birth~~.  
23 Section 15 of the AIDS Confidentiality Act applies to reporting  
24 under this Act, except that the immunities set forth in that  
25 Section do not apply in cases of willful or wanton misconduct.

1 (b) The Department shall adopt rules specifying the  
2 information required in reporting the preliminarily  
3 HIV-positive pregnant or post-partum woman and preliminarily  
4 HIV-exposed newborn infant and the method of reporting. In  
5 adopting the rules, the Department shall consider the need for  
6 information, protections for the privacy and confidentiality  
7 of the infant and parents, the need to provide access to care  
8 and follow-up services to the infant, and procedures for  
9 destruction of records maintained by the Department if, through  
10 subsequent HIV testing, the pregnant or post-partum woman or  
11 newborn infant is found to be HIV-negative.

12 (c) The confidentiality provisions of the AIDS  
13 Confidentiality Act shall apply to the reports of cases of  
14 perinatal HIV made pursuant to this Section.

15 (d) Health care facilities shall monthly report aggregate  
16 statistics to the Department that include the number of  
17 pregnant or delivering women ~~infected women~~ who presented with  
18 known HIV status;; the number of pregnant women rapidly tested  
19 for HIV in labor and delivery as either a first HIV test or a  
20 repeat third trimester HIV test; the number of newborn infants  
21 rapidly tested for HIV-exposure because the HIV status of the  
22 woman was unknown in the third trimester, or the woman refused  
23 testing; the number of preliminarily HIV-positive pregnant or  
24 women and preliminarily HIV-exposed newborn infants  
25 identified;; the number of families referred to case  
26 management;; and other information the Department determines

1 is necessary to measure progress under the provisions of this  
2 Act. Health care facilities must report the confirmatory test  
3 result when it becomes available for each preliminarily  
4 positive rapid HIV test performed on the pregnant woman and on  
5 a newborn.

6 (e) The Department or its authorized representative shall  
7 provide case management services to the preliminarily positive  
8 pregnant or post-partum woman or the parent or guardian of the  
9 preliminarily positive newborn infant to ensure access to  
10 treatment and care and other services where the pregnant or  
11 post-partum woman or the ~~as appropriate if the~~ parent or  
12 guardian of the newborn infant has consented to the services.

13 (f) Every health care facility caring for a newborn infant  
14 whose mother had been diagnosed HIV positive prior to labor and  
15 delivery shall report a case of perinatal HIV exposure in  
16 accordance with the HIV/AIDS Registry Act, the Illinois  
17 Sexually Transmissible Disease Control Act, and rules to be  
18 developed by the Department. If after 18 months from the date  
19 that the report was submitted, a newborn infant is determined  
20 to not have HIV or AIDS, the Department shall remove the  
21 newborn infant's name from all reports, records, and files  
22 collected or created under this subsection (f).

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

24 (410 ILCS 335/30)

25 Sec. 30. Objections of parent or guardian to test. The



1 provisions of this Act requiring testing for HIV shall not  
2 apply when a parent or guardian of a child objects to HIV  
3 testing thereto on the grounds that the test conflicts with the  
4 parent's ~~his or her~~ religious tenets and practices. A written  
5 statement of the objection shall be presented to the physician  
6 or other person whose duty it is to administer and report the  
7 tests under the provisions of this Act.

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

9 (410 ILCS 335/35)

10 Sec. 35. Department report. The Department of Public Health  
11 shall prepare an annual report for the Governor and the General  
12 Assembly on the implementation of this Act that includes  
13 information on the number of HIV-positive pregnant women who  
14 presented with known HIV status, the number of pregnant women  
15 rapidly tested for HIV in labor and delivery, the number of  
16 newborn infants rapidly tested for HIV exposure, the number of  
17 preliminarily HIV-positive pregnant women and preliminarily  
18 HIV-exposed newborn infants identified, the confirmatory test  
19 result for each preliminarily positive rapid HIV test performed  
20 on the woman and newborn, the number of families referred to  
21 case management, and other information the Department  
22 determines is necessary to measure progress under the  
23 provisions of this Act. The Department shall assess the needs  
24 of health care professionals and facilities for ongoing  
25 training in implementation of the provisions of this Act and

1 make recommendations to improve the program.

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

3 Section 99. Effective date. This Act takes effect upon  
4 becoming law.".