



Rep. Mary E. Flowers

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1 AMENDMENT TO HOUSE BILL 2800

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

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

7 (410 ILCS 335/5)

8 Sec. 5. Definitions. In this Act:

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

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 birth 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 or  
4 labor or delivery services to a pregnant woman and her newborn  
5 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 shall, unless she already has a  
17 negative HIV status ~~has already been tested~~ during the third  
18 trimester of the current pregnancy, or is already HIV-positive,  
19 provide the woman with HIV counseling, as described in subpart  
20 (d) of this Section, and shall test her for HIV on an opt-out  
21 basis unless she refuses. The counseling and testing or refusal  
22 of testing shall comply with the requirements for informed  
23 consent in the AIDS Confidentiality Act and be documented in  
24 the pregnant woman's medical record as required by the AIDS  
25 Confidentiality Act. ~~A refusal may be verbal or in writing.~~

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

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

1 test result, if available, shall be noted in the newborn  
2 infant's medical record. It shall also be noted in the newborn  
3 infant's medical record if the mother's third trimester HIV  
4 test result is not available because she was not tested in the  
5 third trimester ~~has not been tested~~ or has declined testing.  
6 Any testing or test results shall be documented in accordance  
7 with the AIDS Confidentiality Act.

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

16 (d) The counseling required under this Section must be  
17 provided in accordance with the AIDS Confidentiality Act and  
18 must include the following:

19 (1) For the health of the pregnant woman, the voluntary  
20 nature of the testing, the benefits of HIV testing,  
21 including the prevention of transmission, and the  
22 requirement that HIV testing be performed unless she  
23 refuses and the methods by which she can refuse.

24 (2) The benefit of HIV testing for herself and the  
25 newborn infant, including interventions to prevent HIV  
26 transmission.

1           (3) The side effects of interventions to prevent HIV  
2 transmission.

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

6           (5) The requirement for mandatory testing of the  
7 newborn if the mother's HIV status during the third  
8 trimester of pregnancy is unknown and if the mother was not  
9 rapidly tested for HIV at delivery ~~at the time of delivery.~~

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

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

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

19           (e) All counseling and testing must be performed in  
20 accordance with the standards set forth in the AIDS  
21 Confidentiality Act, including the informed consent provisions  
22 of Sections 4, 7, and 8 of that Act, with the exception of the  
23 requirement of consent for testing of newborn infants.

24           Consent for testing of a newborn infant shall be presumed  
25 when a health care professional or health care facility seeks  
26 to perform a test on a newborn infant whose mother's HIV status

1 is not known either in the third trimester of pregnancy or at  
2 delivery, provided that the counseling required under  
3 subsection (d) of this Section and the AIDS Confidentiality Act  
4 has taken place.

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

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

8 (410 ILCS 335/15)

9 Sec. 15. Reporting.

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

21 (b) The Department shall adopt rules specifying the  
22 information required in reporting the preliminarily  
23 HIV-positive pregnant or post-partum woman and preliminarily  
24 HIV-exposed newborn infant and the method of reporting. In  
25 adopting the rules, the Department shall consider the need for

1 information, protections for the privacy and confidentiality  
2 of the infant and parents, the need to provide access to care  
3 and follow-up services to the infant, and procedures for  
4 destruction of records maintained by the Department if, through  
5 subsequent HIV testing, the pregnant or post-partum woman or  
6 newborn infant is found to be HIV-negative.

7 (c) The confidentiality provisions of the AIDS  
8 Confidentiality Act shall apply to the reports of cases of  
9 perinatal HIV made pursuant to this Section.

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

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

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

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

19 (410 ILCS 335/30)

20 Sec. 30. Objections of parent or guardian to test. The  
21 provisions of this Act requiring testing for HIV shall not  
22 apply when a parent or guardian of a child objects to HIV  
23 testing ~~thereto~~ on the grounds that the test conflicts with the  
24 parent's ~~his or her~~ religious tenets and practices. A written  
25 statement of the objection shall be presented to the physician



1 or other person whose duty it is to administer and report the  
2 tests under the provisions of this Act.

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

4 (410 ILCS 335/35)

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

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

23 Section 99. Effective date. This Act takes effect upon  
24 becoming law."