

1 AN ACT concerning public health.

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

4 Section 5. The AIDS Confidentiality Act is amended by
5 changing Sections 5 and 9 and adding Section 5.5 as follows:

6 (410 ILCS 305/5) (from Ch. 111 1/2, par. 7305)

7 Sec. 5. No health care provider ~~physieian~~ may order an
8 HIV test without making available to the person tested
9 information about the meaning of the test results, the
10 availability of additional or confirmatory testing, if
11 appropriate, and the availability of referrals for further
12 information or counseling.

13 (Source: P.A. 85-677; 85-679.)

14 (410 ILCS 305/5.5 new)

15 Sec. 5.5. Testing to conform to federal guidelines.
16 Testing shall be conducted in accordance with the United
17 States Centers for Disease Control and Prevention guidelines.

18 (410 ILCS 305/9) (from Ch. 111 1/2, par. 7309)

19 Sec. 9. No person may disclose or be compelled to
20 disclose the identity of any person upon whom a test is
21 performed, or the results of such a test in a manner which
22 permits identification of the subject of the test, except to
23 the following persons:

24 (a) The subject of the test or the subject's legally
25 authorized representative. A physician may notify the spouse
26 of the test subject, if the test result is positive and has
27 been confirmed ~~by-a-Western-Blot-Assay-or-more-reliable-test,~~
28 provided that the physician has first sought unsuccessfully
29 to persuade the patient to notify the spouse or that, a

1 reasonable time after the patient has agreed to make the
2 notification, the physician has reason to believe that the
3 patient has not provided the notification. This paragraph
4 shall not create a duty or obligation under which a physician
5 must notify the spouse of the test results, nor shall such
6 duty or obligation be implied. No civil liability or criminal
7 sanction under this Act shall be imposed for any disclosure
8 or non-disclosure of a test result to a spouse by a physician
9 acting in good faith under this paragraph. For the purpose
10 of any proceedings, civil or criminal, the good faith of any
11 physician acting under this paragraph shall be presumed.

12 (b) Any person designated in a legally effective release
13 of the test results executed by the subject of the test or
14 the subject's legally authorized representative.

15 (c) An authorized agent or employee of a health facility
16 or health care provider if the health facility or health care
17 provider itself is authorized to obtain the test results, the
18 agent or employee provides patient care or handles or
19 processes specimens of body fluids or tissues, and the agent
20 or employee has a need to know such information.

21 (d) The Department, in accordance with rules for
22 reporting and controlling the spread of disease, as otherwise
23 provided by State law. Neither the Department nor its
24 authorized representatives shall disclose information and
25 records held by them relating to known or suspected cases of
26 AIDS or HIV infection, publicly or in any action of any kind
27 in any court or before any tribunal, board, or agency. AIDS
28 and HIV infection data shall be protected from disclosure in
29 accordance with the provisions of Sections 8-2101 through
30 8-2105 of the Code of Civil Procedure.

31 (e) A health facility or health care provider which
32 procures, processes, distributes or uses: (i) a human body
33 part from a deceased person with respect to medical
34 information regarding that person; or (ii) semen provided

1 prior to the effective date of this Act for the purpose of
2 artificial insemination.

3 (f) Health facility staff committees for the purposes of
4 conducting program monitoring, program evaluation or service
5 reviews.

6 (g) (Blank).

7 (h) Any health care provider or employee of a health
8 facility, and any firefighter or EMT-A, EMT-P, or EMT-I,
9 involved in an accidental direct skin or mucous membrane
10 contact with the blood or bodily fluids of an individual
11 which is of a nature that may transmit HIV, as determined by
12 a physician in his medical judgment.

13 (i) Any law enforcement officer, as defined in
14 subsection (c) of Section 7, involved in the line of duty in
15 a direct skin or mucous membrane contact with the blood or
16 bodily fluids of an individual which is of a nature that may
17 transmit HIV, as determined by a physician in his medical
18 judgment.

19 (j) A temporary caretaker of a child taken into
20 temporary protective custody by the Department of Children
21 and Family Services pursuant to Section 5 of the Abused and
22 Neglected Child Reporting Act, as now or hereafter amended.

23 (k) In the case of a minor under 18 years of age whose
24 test result is positive and has been confirmed by--a--Western
25 Blot--Assay-or-a-more-reliable-test, the health care provider
26 who ordered the test shall make a reasonable effort to notify
27 the minor's parent or legal guardian if, in the professional
28 judgement of the health care provider, notification would be
29 in the best interest of the child and the health care
30 provider has first sought unsuccessfully to persuade the
31 minor to notify the parent or legal guardian or a reasonable
32 time after the minor has agreed to notify the parent or legal
33 guardian, the health care provider has reason to believe that
34 the minor has not made the notification. This subsection

1 shall not create a duty or obligation under which a health
2 care provider must notify the minor's parent or legal
3 guardian of the test results, nor shall a duty or obligation
4 be implied. No civil liability or criminal sanction under
5 this Act shall be imposed for any notification or
6 non-notification of a minor's test result by a health care
7 provider acting in good faith under this subsection. For the
8 purpose of any proceeding, civil or criminal, the good faith
9 of any health care provider acting under this subsection
10 shall be presumed.

11 (Source: P.A. 88-45; 89-381, eff. 8-18-95.)